International Labour Conference
83rd Session 1996

Report III
(Part 4A)

Report of the Committee of Experts on the Application of Conventions and Recommendations

General report and observations concerning particular countries

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International Labour Office Geneva

International Labour Conference
83rd Session 1996

Report III
(Part 4A)

Third item on the agenda:
Information and reports on the application
of Conventions and Recommendations

Report of the Committee of Experts on the Application of Conventions and Recommendations

(articles 19, 22 and 35 of the Constitution)

General report
and observations concerning particular countries

International Labour Office Geneva

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ALGERIA	General Report, para. 124 I B, Nos. 13, 77, 78, 88, 105, 111, 122 III	Art. 22, Nos. 14, 24, 56, 77, 78, 87, 94, 95, 97, 98, 105, 111
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ANTIGUA AND BARBUDA	General Report, para. 124 III	Art. 22, general Art. 22, Nos. 29, 81, 111
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BELARUS	General Report, para. 99	Art. 22, Nos. 87, 98, 111, 160

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[1] The roman numerals and letters refer to sections of Part Two of this report and the arabic numerals to the numbers of the Conventions.

[2] The abbreviations used in respect of direct requests are the following:
"Art. 22": application of ratified Conventions in member States.
"Art. 35": application of ratified Conventions in non-metropolitan territories.
"Subm.": submission of Conventions and Recommendations to the competent authorities.
The numbers refer to Conventions.

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not published in the present Report)[2]
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BOLIVIA	General Report, para. 99 I B, Nos. 5, 14, 81, 98, 102, 106, 122, 129	Art. 22, Nos. 105, 111, 160 Subm.
BOSNIA AND HERZEGOVINA	General Report, para. 89 I A	Subm.
BOTSWANA		Subm.
BRAZIL	I B, Nos. 29, 42, 81, 89, 98, 105, 107, 111, 122, 148, 155 III	Art. 22, Nos. 22, 42, 81, 98, 107, 111, 117, 119, 139, 154, 155, 160
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BURKINA FASO	I B, Nos. 6, 81, 129	Art. 22, Nos. 14, 81, 98, 129, 159 Subm.
BURUNDI	General Report, paras. 89, 99 I A and B No. 29	Art. 22, Nos. 11, 29, 81, 94, 105 Subm.
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CAMEROON	General Report, paras. 99, 124 I B, Nos. 81, 87, 94, 98 III	Art. 22, general Art. 22, Nos. 97, 106, 111, 122, 132, 143, 162
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Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not published in the present Report)[2]
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DENMARK	I B, Nos. 98, 122	Art. 22, Nos. 81, 111, 119 Art. 35, No. 122
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EL SALVADOR	General Report, para. 124 I B, No. 105 III	Art. 22, Nos. 105, 107, 159

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not published in the present Report)[2]
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ESTONIA		Art. 22, No. 2 Subm.
ETHIOPIA	I B, No. 98	Art. 22, general Art. 22, Nos. 98, 158, 159 Subm.
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GABON	I B, Nos. 87, 95, 98, 105	Art. 22, general Art. 22, Nos. 11, 52, 87, 95, 100, 105, 111, 124, 144, 154 Subm.
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GERMANY	I B, Nos. 98, 111	Art. 22, Nos. 111, 128, 130, 147, 160 Subm.
GHANA	General Report, para. 89 I A and B, Nos. 87, 98, 105, 111, 115, 119	Art. 22, Nos. 22, 30, 87, 100, 105, 111, 148, 149 Subm.
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KENYA	I B. No. 98 III	Art. 22, No. 81

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not published in the present Report)[2]
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KYRGYZSTAN	I B, No. 95	Art. 22, Nos. 23, 52, 77, 78, 95, 98, 108, 124, 147, 159 Subm.
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LATVIA	General Report, para. 95 I A and B, Nos. 87, 119	Art. 22, general Art. 22, Nos. 87, 98, 100, 115, 119 Subm.
LEBANON	I B, No. 81 III	Art. 22, general Art. 22, Nos. 14, 52, 59, 73, 77, 78, 81, 95, 98, 106, 111, 122, 133
LESOTHO	General Report, para. 124 I B, Nos. 5, 45 III	Art. 22, general Art. 22, Nos. 14, 98
LIBERIA	General Report, paras. 89, 95, 96 I A and B, Nos. 22, 29, 87, 98, 105, 114	Art. 22, Nos. 29, 105, 111 Subm.
LIBYAN ARAB JAMAHIRIYA	General Report, para. 124 I B, Nos. 81, 95, 98, 118, 121, 130 III	Art. 22, general Art. 22, Nos. 1, 52, 53, 95, 100, 111, 118, 121, 122, 130, 131, 138
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LUXEMBOURG	General Report, para. 95 I A	Art. 22, Nos. 9, 77, 78
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Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not published in the present Report)[2]
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Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not published in the present Report)[2]
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Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not published in the present Report)[2]
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THAILAND	General Report, para. 124 I B, No. 105 III	Art. 22, No. 105
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Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not published in the present Report)[2]
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UGANDA	I B, Nos. 17, 81, 105, 122	Art. 22, general Art. 22, Nos. 29, 94, 95, 124, 143, 154, 158 Subm.
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ZIMBABWE		Subm.

PART ONE

General report

General report

I. Introduction

1. The Committee of Experts on the Application of Conventions and Recommendations, appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by States Members of the International Labour Organization on the action taken with regard to Conventions and Recommendations, held its 66th Session in Geneva from 23 November to 8 December 1995. The Committee has the honour to present its report to the Governing Body.

2. The Committee noted with regret that Mr. Kéba MBAYE asked to be relieved of his duties as member of the Committee. It would like to pay tribute to the outstanding contribution he made to the work of the Committee during his 12 years as a member, due to his vast experience and his steadfast commitment to the principles of the ILO.

3. The Governing Body has appointed Ms. Blanca Ruth ESPONDA ESPINOSA and Mr. Miguel RODRIGUEZ PIÑERO Y BRAVO FERRER as members of the Committee. It gave the Committee great pleasure to welcome them to its present session.

4. The present composition of the Committee is as follows:

Mrs. Badria AL-AWADHI (Kuwait),
Barrister-at-Law; former Dean of the Faculty of Law, Kuwait; former Professor of Public International Law, Kuwait University; member of the International Commission of Jurists; Vice-President of the International Federation of Women Lawyers; member of the International Law Association; Vice-Chairman of West Asia Committee on Environmental Law of the International Union for the Conservation of Nature (IUCN); member of the Arab Court of Arbitration; member of the Arab Labour Office Committee on Freedom of Association; member of the Arabian African Centre for Arbitration;

Ms. Janice R. BELLACE (United States),
Professor of Legal Studies and Management, and Deputy Dean of the Wharton School, University of Pennsylvania; Adjunct Professor at the University of Pennsylvania Law School; General Editor, Comparative Labor Law Journal; member of the Executive Board of the US branch of the International Society of Labour Law and Social Security; member of the Public Review Board of the United Automobile, Aerospace and Agricultural Implements Workers' Union; former secretary of the Section on Labor Law, American Bar Association;

Mr. Prafullachandra Natvarlal BHAGWATI (India),
Former Chief Justice of India; former Chief Justice of the High Court of Gujarat; former Chairman, Legal Aid Committee and Judicial Reforms Committee, Government of Gujarat; former Chairman, Committee on Juridicare, Government

of India; former Chairman of the Committee appointed by the Government of India for implementing legal aid schemes in the country; member of the International Committee on Human Rights of the International Law Association; member of the Editorial Committee of Reports of the Commonwealth; Chairman of the National Committee for Social and Economic Welfare of the Government of India; Ombudsman for the national newspaper *Times of India*; Chairman of the Advisory Board of the Centre for Independence of Judges and Lawyers, Geneva; Vice-President of El Taller; Chairman of the Panel for Social Audit of Telecom and Postal Services in India; member of the UN Human Rights Committee;

The Right Honourable Sir William DOUGLAS, PC, KCMG (Barbados),
Former Ambassador; former Chief Justice of Barbados; former Chairman, Commonwealth Caribbean Council of Legal Education; former Chairman, Inter-American Juridical Committee; former Judge of the High Court of Jamaica;

Ms. Blanca Ruth ESPONDA ESPINOSA (Mexico),
Doctor of Law; former President of the Senate of the Republic (1989) and of the Foreign Relations Committee; former President of the Population and Development Committee of the Chamber of Deputies and member of the Labour and Social Insurance Committee; Professor of International Law at the Anahuac University and of Labour Law at the National Autonomous University of Mexico; former President of the Inter-American Parliamentary Group on Population and Development and former Vice-President of the Global Forum of Spiritual and Parliamentary Leaders; member of the National Federation of Lawyers and of the Lawyers' Forum of Mexico; recipient of the award for Juridical Merit "the Lawyer of the Year (1993)"; former Director of the National Institute for Labour Studies and former editor of the Mexican Labour Review;

Ms. Robyn A. LAYTON, Q.C. (Australia),
Barrister-at-Law; Commissioner on Health Insurance Commission; Director, National Rail Corporation; Former chairperson of the Australian Health Ethics Committee of the National Health and Medical Research Council; former Honorary Solicitor for the South Australian Council for Civil Liberties; former Solicitor for the Central Aboriginal Land Council; former Chairman of the South Australian Sex Discrimination Board; former Judge and Deputy President of the South Australian Industrial Court and Commission; former Deputy President of the Federal Administrative Appeals Tribunal;

Mrs. Ewa LETOWSKA (Poland),
Professor of Civil Law (Institute of Legal Studies of the Polish Academy of Sciences); former parliamentary ombudsman; former member of the Legislative Council to the Council of Ministers; former member of the Commission for the Reform of Civil Law; member of the Helsinki Committee; member of the International Commission of Jurists;

Mr. Roman Zinovievich LIVSHITZ (Russian Federation),
Doctor of Law; Principal Researcher at the Institute of State and Law of the Academy of Sciences of the Russian Federation; Professor of Labour Law and Jurisprudence at the Moscow International (Russian-American) University; member of the Scientific Advisory Council at the Supreme Court of the Russian Federation; honorary lawyer of the Russian Federation;

Baron Bernd von MAYDELL (Germany),
Professor of Civil Law, Labour Law and Social Security Law; Director of the Max Planck Institute for Foreign and International Social Law (Munich);

Mr. Kéba MBAYE (Senegal),
Former Vice-President of the International Court of Justice; First Honorary President of the Supreme Court of Senegal; former President of the Constitutional Council of Senegal; member of the Institute of International Law; member of the Curatorium of the Academy of International Law at the Hague; former President of the International Commission of Jurists; former President of the United Nations Commission on Human Rights; Deputy President of the International Court of Arbitration of the International Chamber of Commerce; member of the Royal Academy of Overseas Science of Belgium and of the Academy of Overseas Science of France;

Mr. Cassio MESQUITA BARROS (Brazil),
Independent lawyer specializing in labour relations (Sao Paulo); Titular Professor of Labour Law at the Law School of the public University of Sao Paulo and the Law School of the private Pontifical Catholic University of Sao Paulo; Academic Adviser, San Martin de Porres University (Lima); winner of the medal for "Honra ao Merito de Trabalho" awarded by Decree of the President of the Republic for a major contribution to the development of labour law; winner of the medal for "Honra ao Merito Judiciario do Trabalho" awarded by the Higher Labour Tribunal for his important contribution to the administration of justice; Honorary President of the "Asociación Iberoamericana de Derecho del Trabajo y Seguridad Social" (Buenos Aires, Argentina); Honorary President of the "Academia Nacional do Direito do Trabalho" (Rio de Janeiro) (composed of Brazilian experts in labour law); member of the International Academy of Jurisprudence and Comparative Law (Rio de Janeiro) and the International Academy of Law and Economy (Sao Paulo); honorary member of the Association of Labour Lawyers of Sao Paulo; member of the Order of Barristers of the State of Sao Paulo;

Mr. Benjamin Obi NWABUEZE (Nigeria),
LLD (London); Hon. LLD (University of Nigeria); Senior Advocate of Nigeria; 1980 Laureate of the Nigerian National Merit Award; former Professor of Law at the University of Nigeria; former Professor and Dean of the Faculty of Law at the University of Zambia; former member of the Governing Council and member, Nigerian Institute of International Affairs and Fellow of the Institute; member, Nigerian Institute of Advanced Legal Studies; former member, Council of Legal Education; former Minister of Education for Nigeria; Constitutional Adviser to the Government of Kenya (1992), Ethiopia (1992) and Zambia (1993);

Mr. Edilbert RAZAFINDRALAMBO (Madagascar),
Honorary First President of the Supreme Court of Madagascar; former President of the High Court of Justice; former Professor of Law at the University of Madagascar; former Arbitrator of the ICSID and of the International Civil Aviation Organization; judge of the Administrative Tribunal of the ILO; former member of the International Council for Commercial Arbitration; former member of the International Court of Arbitration of the International Chamber of Commerce; Alternate Chairman of the Staff Committee of Appeals, African Development Bank; member of the United Nations International Law Commission;

Mr. Miguel RODRIGUEZ PIÑERO Y BRAVO FERRER (Spain),
Doctor of Law; Doctor *honoris causa* of the University of Ferrare (Italy); President Emeritus of the Constitutional Court; Professor of Labour Law; President of the Spanish Association of Labour Law and Social Security; member of the European Academy of Labour Law and the Ibero-American Academy of Labour Law; former President of the National Advisory Commission on Collective Agreements and President of the Andalucian Industrial Relations Council; former Dean of the Faculty of Law of the University of Seville; former Director of the University College of La Radiba; Director of the review *Relaciones laborales*;

Mr. Boon Chiang TAN (Singapore),
BBM, PPA, LLB, (London) Dip. Arts, Barrister-at-Law and Solicitor, Singapore; former President of the Industrial Arbitration Court of Singapore; former member of the Court and Council of the University of Singapore; former President, Copyright Tribunal; former Chairman, Income Tax Board of Review; former Vice-President (Asia) of the International Society of Labour Law and Social Security;

Mr. Fernando URIBE RESTREPO (Colombia),
Barrister-at-law; former member of the Supreme Court of Justice of Colombia; former President of the Court of Justice of the Cartagena Accord; former President of the Supreme Court of Colombia; former Professor of International Labour Law at the National University of Colombia; former Professor of Labour Law, Universities *Externado de Colombia* and *Pontificia Javeriana*; former Professor of Philosophy of Law at the Bolivariano University of Medellín;

Mr. Jean-Maurice VERDIER (France),
Professor Emeritus at the University of Paris X; Honorary President of the University of Paris X; Honorary Dean of the Faculty of Law and Economics; Director of the Institute for Research on Undertakings and Industrial Relations of the University of Paris X (associate of the National Centre for Scientific Research); former Director of the Institute of Labour Social Sciences, University of Paris I; Vice-President of Libre Justice, the French section of the International Commission of Jurists; former Professor at the Faculties of Law and Economics at Tunis (1956-61) and Algiers (1965-68); former President and Honorary President of the International Society of Labour Law and Social Security; former President and Honorary President of the French Association of Labour and Social Security Law;

Mr. Budislav VUKAS (Croatia),
Professor of Public International Law at the University of Zagreb, Faculty of Law; associate member of the Institute of International Law; member of the OSCE Court of Conciliation and Arbitration; member of the Working Group on National Minorities of the Central European Initiative; member of the International Council of Environmental Law; member of the Commission on Environmental Law of the International Union for Conservation of Nature and Natural Resources; former member of the Permanent Court of Arbitration;

Sir John WOOD (United Kingdom),
CBE, LLM; Barrister; Chairman of the Central Arbitration Committee;

Mr. Toshio YAMAGUCHI (Japan),
Honorary Professor of Law at the University of Tokyo, Professor of Law at Kanagawa University; member of the Japanese Central Committee of Labour Relations; former member of the Executive Committee of the International Society

of Labour Law and Social Security; full member of the International Academy of Comparative Law.

5. The Committee elected Sir William DOUGLAS as Chairperson and Mr. E. RAZAFINDRALAMBO as Reporter of the Committee. As Mr. RAZAFINDRALAMBO had to leave the session to fulfil his functions as Chairman of the Commission of Inquiry for Burundi, established by the resolution 1012 of the Security Council, dated 28 August 1995 the Committee elected Mr. T. YAMAGUCHI to exercise the functions of Reporter at this Session.

6. In pursuance of its terms of reference, as revised by the Governing Body at its 103rd Session (Geneva, 1947), the Committee was called upon to examine:

(i) the annual reports under article 22 of the Constitution on the measures taken by Members to give effect to the provisions of the Conventions to which they are parties, and the information furnished by Members concerning the results of inspection;

(ii) the information and reports concerning Conventions and Recommendations, communicated by Members in accordance with article 19 of the Constitution;

(iii) the information and reports on measures taken by Members in accordance with article 35 of the Constitution.

7. The Committee, after an examination and evaluation of the above reports and information, drew up its present report, consisting essentially of the following three parts: Part One is the General Report in which the Committee reviews general questions concerning international labour standards and related instruments and their implementation. Part Two contains observations concerning particular countries on the application of ratified Conventions (see section I and paragraphs 83 to 114 below), on the application of Conventions in non-metropolitan territories (see section II and paragraphs 83 to 114 below), and on the obligation to submit instruments to the competent authorities (see section III and paragraphs 115 to 127 below). Part Three, which is published in a separate volume (Report III (Part 4B)) consists of a special survey on equality in employment and occupation in respect of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), on which the governments of the countries which have not ratified the Convention were requested to submit reports under article 19 of the Constitution of the ILO, in accordance with the decision of the Governing Body at its 208th (November) 1978 and 209th (February-March 1979) Sessions.

8. In carrying out its task, which consists of indicating the extent to which the situation in each State appears to be in conformity with the Conventions and the obligations undertaken by that State by virtue of the ILO Constitution, the Committee has followed the principles of independence, objectivity and impartiality set forth in its previous reports. It has continued to apply the working methods recalled in its 1987 report. A spirit of mutual respect, cooperation and responsibility has consistently prevailed in the Committee's relations with the International Labour Conference and its Committee on the Application of Standards, whose proceedings the Committee takes fully into consideration, not only in respect of general matters concerning standard-setting activities and supervisory procedures, but also in respect of specific matters concerning the way in which States fulfil their standard-related obligations.

9. In this context, the Committee again noted the participation of the Chairperson of its 65th Session as an observer in the general discussion of the Committee on the Application of Standards of the 82nd Session of the International Labour Conference (June 1995). It noted the decision of the Conference Committee on the Application of Standards again to request the Director-General to invite the Chairperson of the 66th Session of the Committee of Experts on the Application of Conventions and Recommendations to attend as an observer the general discussion of the Committee on the Application of Standards of the 83rd Session of the International Labour Conference (June 1996). The Committee accepted the invitation.

II. General

Membership of the Organization

10. Since the Committee's last session, the number of member States of the ILO has risen from 171 to 173; Gambia became a Member of the Organization on 29 May 1995, and St. Vincent and the Grenadines on 31 May 1995.

New standards adopted by the Conference in 1995

11. The Committee noted that at its 82nd Session (June 1995), the International Labour Conference adopted the Safety and Health in Mines Convention (No. 176) and Recommendation (No. 183), 1995.

Ratifications and denunciations

12. Since 1 January 1995, 110 ratifications by 32 member States have been registered. The total number of ratifications at 8 December 1995 was 6,292.

13. Since 1 January 1995, no denunciation not accompanied by the ratification of a revised Convention has been registered. The total number of such denunciations was 76 at 8 December 1995.

14. Since the Committee's last session, the Director-General has registered one denunciation accompanied by the ratification of a revised Convention. The Safety Provisions (Building) Convention, 1937 (No. 62), was denounced by Denmark following its ratification of the Safety and Health in Construction Convention, 1988 (No. 167).

Constitutional and other procedures

15. The Committee was informed of the following decisions taken by the Governing Body in cases involving recourse to the constitutional procedures of complaint and representation and other procedures.

A. Complaint submitted under article 26 of the ILO Constitution

Complaint against Sweden

16. Exercising the discretionary power conferred upon it by Article 26, paragraph 3, of the Constitution, the Governing Body decided at its 262nd Session (March-April 1995) not to follow- up the complaint alleging non-observance by Sweden of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the Right to Organize and Collective Bargaining Convention, 1948 (No. 98), and the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), submitted by the Employer delegates from Sweden at the 78th Session (1991) of the International Labour Conference.

B. Representations submitted under article 24 of the ILO Constitution

Representation concerning the Socialist Federal Republic of Yugoslavia

17. The Committee noted previously that the tripartite committee established to examine the representation submitted by the International Confederation of Free Trade Unions (ICFTU), alleging non-observance by the Socialist Federal Republic of Yugoslavia of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), submitted its report to the 253rd (May-June 1992) Session of the Governing Body. The Governing Body noted that, while awaiting a decision by the United Nations, it was not possible to identify the Government concerned for the application of article 7 of the Standing Orders governing the procedure for the examination of representations submitted under articles 24 and 25 of the ILO Constitution. The Governing Body has still not set a date for the examination of the report.

Representation concerning Guatemala

18. The tripartite committee set up to examine the representation made by the International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) and the Public Services International (PSI), alleging non-observance by Guatemala of the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105), will meet during the 265th Session (March 1996) of the Governing Body to examine its report.

Representations concerning Poland

19. The tripartite committee set up to examine the representation made by the All-Poland Alliance of Trade Unions (OPZZ), alleging non-observance by Poland of the Employment Policy Convention, 1964 (No. 122), will meet during the 265th Session (March-April 1996) of the Governing Body to examine its report.

20. The representation made by the Independent and Autonomous Trade Union "SOLIDARNOSC", alleging non-observance by Poland of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), was examined by the Committee on Freedom of Association at its November 1995 Session (301st Report).

Representation concerning Brazil

21. At its 264th Session (November 1995), the Governing Body adopted the report of the tripartite committee set up to examine the representation made by the Latin American Central of Workers (CLAT), alleging non-observance by Brazil of the Forced

Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105).

Representation concerning the Czech Republic

22. At its 264th Session (November 1995), the Governing Body adopted the report of the tripartite committee set up to examine the representation made by the Trade Union of Bohemia, Moravia and Silesia (OS-CMS), alleging non-observance by the Czech Republic of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

Representation concerning Congo

23. The tripartite committee set up to examine the representation made by the International Organization of Energy and Mines (IOEM), alleging non-observance by Congo of the Protection of Wages Convention, 1949 (No. 95), will meet during the 265th Session (March-April 1996) of the Governing Body to examine its report.

Representation concerning Costa Rica

24. The tripartite committee set up to examine the representation made by the Latin American Central of Workers (CLAT), alleging non-observance by Costa Rica of the Employment Policy Convention, 1964 (No. 122), will meet during the 265th Session (March 1996) of the Governing Body to examine its report.

Representation concerning France

25. The tripartite committee set up to examine the representation made by the World Federation of Trade Unions (WFTU), alleging non-observance by France (French Polynesia) of the Labour Inspection Convention, 1947 (No. 81), and the Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82), will meet during the 265th Session (March 1996) of the Governing Body to examine its report.

Representation concerning Nicaragua

26. At its 264th Session (November 1995), the Governing Body adopted the report of the tripartite committee set up to examine the representation made by the Latin American Central of Workers (CLAT), alleging non-observance by Nicaragua of the Protection of Wages Convention, 1949 (No. 95), the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), and the Employment Policy Convention, 1964 (No. 122).

Representation concerning Paraguay

27. At its 264th Session (November 1995), the Governing Body adopted the report of the report of the tripartite committee set up to examine the representation made by the Latin American Central of Workers (CLAT), alleging non-observance by Paraguay of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26).

Representations concerning Peru

28. At its 264th Session (November 1995), the Governing Body adopted the report of the tripartite committee set up to examine the representation made by the Latin American Central of Workers (CLAT), alleging non-observance by Peru of the Social Security (Minimum Standards) Convention, 1952 (No. 102).

29. At its 264th Session (November 1995), the Governing Body decided that the representation made by the General Confederation of Workers of Peru (CGTP), alleging non-observance by Peru of the Night Work (Women) Convention, 1919 (No. 4); the Night Work (Women) Convention (Revised), 1934 (No. 41), the Underground Work (Women) Convention, 1935 (No. 45) and the Social Security (Minimum Standards) Convention, 1952 (No. 102), was receivable in respect of the former three instruments. The Governing Body set up a tripartite committee to examine the representation.

Representation concerning Uruguay

30. The tripartite committee set up to examine the representation made by the Inter-Union Assembly of Workers-National Convention of Workers (PIT-CNT) and its affiliate, the National Single Trade Union in Construction and Similar Activities (SUNCA), alleging non-observance by Uruguay of the Safety Provisions (Building) Convention, 1937 (No. 62), the Labour Inspection Convention, 1947 (No. 81), the Labour Administration Convention, 1978 (No. 150), the Occupational Safety and Health Convention, 1981 (No. 155), and the Occupational Health Services Convention, 1985 (No. 161), will meet during the 265th Session (March 1996) of the Governing Body to examine its report.

Representation concerning the Russian Federation

31. At its 263rd Session (June 1995), the Governing Body decided that the representation made by the Seafarers' Union of Russia, alleging non-observance by the Russian Federation of the Seafarers' Identity Documents Convention, 1958 (No. 108), was receivable. The Governing Body set up a tripartite committee to examine the representation.

Representation concerning Greece

32. At its 264th Session (November 1995), the Governing Body decided that the representation made by the Federation of the Associations of Public Servants of the Ministry of Labour of Greece, alleging non-observance by Greece of the Labour Inspection Convention, 1947 (No. 81), was receivable. The Governing Body set up a tripartite committee to examine the representation.

C. Special procedures concerning freedom of association

33. At each of its last meetings (March, June and November 1995), the Committee on Freedom of Association had before it an average of 100 cases concerning nearly 50 countries from all parts of the world, in which it presented interim or final conclusions, or cases of which the examination has been adjourned pending the arrival of information from governments (295th to 301st Reports). Some of these cases have been before the Committee on two occasions. Moreover, since March 1995, 39 new cases have been submitted to the Committee. A direct contacts mission concerning a case pending before the Committee on Freedom of Association visited Australia.

34. The Committee on Freedom of Association drew the attention of the Committee of Experts to the legislative aspects of the following cases: 1612 and 1685 (Venezuela), 1767 (Ecuador), 1788 (Romania), 1759 (Peru), 1780 (Costa Rica) and 1791 (Chad).

Functions in regard to other international and regional instruments

A. United Nations Covenants and Conventions concerning human rights

35. The Office regularly sends information, in accordance with existing arrangements with each one of them, to the various bodies responsible for the application of United Nations Conventions that fall within its competence. These bodies constitute the supervisory machinery established by the United Nations to examine the reports that governments are required to submit on each of the instruments that they have ratified. Since the Committee's last meeting, the following activities have been undertaken:

- *International Covenant on Economic, Social and Cultural Rights*: the Office took part in the Twelfth (May 1995) and Thirteenth (November-December 1995) Sessions of the Committee on Economic, Social and Cultural Rights and presented reports on four and three countries respectively;
- *International Covenant on Civil and Political Rights*: reports were presented on a number of countries at the 53rd (March-April 1995), 54th (July 1995) and 55th (October-November 1995) Sessions of the Human Rights Committee;
- *Convention on the Elimination of All Forms of Discrimination against Women*: reports will be submitted to the 15th (January-February 1996) Session of the Committee on the Elimination of Discrimination against Women, together with additional information on ILO activities in this area and a document on equal remuneration for work of equal value;
- *International Convention on the Elimination of All Forms of Racial Discrimination*: the Office took part in the 46th (March 1995) and 47th (July-August 1995) Sessions of the Committee on the Elimination of Racial Discrimination.

36. In accordance with Article 45 of the *United Nations Convention on the Rights of the Child*, the ILO was represented at the Ninth and Tenth Sessions of the Committee on the Rights of the Child (Geneva, May-June 1995, October-November 1995). At 31 October 1995, 180 States were parties to the Convention. The Committee on the Rights of the Child examined the reports from the following countries: Nicaragua, Canada, Belgium, Tunisia, Sri Lanka (Ninth Session); Italy, Ukraine, Germany, Senegal, Portugal and the Holy See (Tenth Session). In its recommendations, the above Committee called on States which have not yet done so to examine the possibility of ratifying the Minimum Age Convention, 1973 (No. 138), and other relevant instruments of the ILO. Furthermore, it called on States which it had found to be experiencing difficulties in areas falling within the ILO's competence, to request the assistance of the Office. This information was communicated to the competent departments at headquarters and in the regions.

37. The Office transmitted information and comments on the reports of countries reporting to the pre-sessional working group of the Committee on the Rights of the Child. The latter Committee pursued its examination of the question of its relations with the specialized agencies at its Ninth and Tenth Sessions. In this connection, it is important to recall that there are national bodies made up of representatives of the administrations concerned and of non-governmental organizations, which aim generally to promote the application of the Convention and propose measures to overcome difficulties in implementing it. In some countries, administrations whose remit covers labour, together with employers' and workers' organizations, have been invited to participate in the activities of these bodies. Their involvement can be of considerable significance in pointing the way for measures to abolish labour by children below a certain age and protect young people who work, in accordance with the provisions of international labour Conventions. It can also facilitate a review of policies concerning child labour, an assessment of their effects and, if need be, give them fresh stimulus.

B. European Code of Social Security and its Protocol

38. In accordance with the supervisory procedure established under Article 74(4) of the Code, and the arrangements made between the ILO and the Council of Europe, the Committee of Experts examined 17 reports, including the first report from Cyprus, on the application of the European Code of Social Security and, as appropriate, its Protocol. It noted that the States Parties to the Code and the Protocol continue to apply them in full, or nearly in full. At the sitting in which the Committee examined the reports on the European Code of Social Security and its Protocol, the Council of Europe was represented by Mr. S.G. Nagel, Head of the Social Security and Employment Division. The conclusions of the Committee regarding these reports will be sent to the Council of Europe.

39. In addition, a representative of the ILO took part, as technical adviser, in the meeting of the Steering Committee for Social Security of the Council of Europe (Strasbourg, April 1995). As in previous years, the Steering Committee approved the conclusions of the Committee of Experts.

C. European Social Charter and Additional Protocol

40. During 1995, in accordance with Article 26 of the European Social Charter, a representative of the ILO participated in an advisory capacity in several sessions of the Committee of Independent Experts set up to supervise the application of the Charter. The draft revised European Social Charter still has to be approved by the Council of Ministers of Council of Europe. At its 514th Session (Strasbourg, 19-22 June 1995), the above Council adopted the Additional Protocol to the Social Charter providing for a system for the submission of representations. Under this new supervisory procedure, which represents similarities with the procedures of the ILO, organizations of employers or of workers will be able to make complaints or submit observations alleging the unsatisfactory application of the Social Charter of the Council of Europe.

Collaboration with other international organizations

Relations between the ILO and the European Union

41. At its previous session, the Committee noted the "Initiative Opinion" on "Relations between the European Union and the International Labour Organization", adopted on 17 January 1995 by the Economic and Social Committee of the European Union. The Opinion expresses concern that the involvement of the European Union in the procedure for the preparation and application of standards should not have the effect of detracting from the dynamism of the ILO's standard-setting activities, to which the States of Europe have traditionally made a substantial contribution through their ratifications. The Committee notes the discussion on this matter at the 262nd Session (March-April 1995) of the Governing Body. It endorses the idea that the improvement of the situation will depend largely on the will of the Members not to forsake their obligations in respect of the ILO within community bodies when they are called upon to decide on the ratification of a Convention. When they participate in the deliberations of these bodies, States must recall their commitment to the achievement of the objectives of the ILO by endeavouring in good faith to envisage the ratification of international labour Conventions in all cases where conditions permit them to do so.

Matters relating to human rights

World Summit for Social Development and the ratification of Conventions on basic workers' rights

42. The Committee notes with interest the outcome of the World Summit for Social Development (Copenhagen, 6-12 March 1995). It notes in particular that the Summit called on governments to safeguard and respect basic workers' rights, including the prohibition of forced and child labour, freedom of association and the right to bargain collectively, equal remuneration for men and women for work of equal value, and non-discrimination in employment, which correspond to the ILO's fundamental Conventions on workers' rights.

43. The Committee welcomes the initiative taken by the Director-General following the Social Summit to dispatch letters to all member States which have not yet ratified one or more of the seven ILO Conventions corresponding to the Summit's Declaration, as well as the first results from this initiative, which were examined by the Governing Body at its 264th Session (November 1995). The Committee notes the positive responses to this initiative, including the four ratifications of these Conventions registered since May 1995, the 25 cases in which States indicated that ratifications would be made in the near future, and the 30 cases in which it was stated that an examination was being undertaken of the possibility of ratification. The Committee also notes that the Director-General will continue to explore this matter with the States which have not replied and that the Office is prepared to supply any assistance in this respect. The Committee also notes that the Governing Body has requested it to follow the progress in the ratification of Conventions on basic workers' rights in its report.

Fourth World Conference on Women

44. The Committee welcomed the emphasis placed on matters related to labour in the Declaration and Platform for Action adopted by the Fourth World Conference on Women (Beijing, 4-15 September 1995). It was addressed on this subject by Mrs. Y. Zhang, Special Adviser for Women Workers' Questions. It notes with interest the suggestion that the follow-up of the Fourth World Conference on Women should be closely associated with that of the Social Summit, particularly in the field of employment. It recalls that the ratification and application of international labour Conventions on equality should provide ILO constituents with a framework for the achievement of the commitments set out in the Declaration adopted by the Conference concerning the elimination of all forms of discrimination and the promotion of women's economic independence and their equal access to economic resources.

Promotion of basic workers' rights

45. The Committee notes that the Governing Body also adopted other measures to promote basic workers' rights. In so doing, it adapted a procedure that it had decided to establish in 1978, under which governments of countries which have not ratified Convention No. 111 are asked to submit every four years reports on difficulties of ratification, measures envisaged to overcome them and the prospects of ratification in the near future. This special survey was examined by the Committee at the present session and is contained in Report III(4B). Following the decision by the Governing Body, in 1997 the Committee will examine reports requested from all member States which have not ratified the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105). In 1998, it will examine reports on the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98). In 1999, it will examine reports on the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Finally, in 2000, the Committee will examine reports from States which have not ratified the Minimum Age Convention, 1973 (No. 138). The cycle will be repeated beginning in 2001. The Governing Body specified that this will not affect or replace the usual procedure as regards the general surveys prepared by the Committee of Experts under article 19 of the Constitution.

46. Among the other decisions adopted by the Governing Body, it requested the Office to pursue cooperation with the United Nations with a view to the inclusion of Conventions on basic workers' rights in the promotional activities of the United Nations, for example in the framework of training activities carried out by the International Training Centre of the ILO (Turin) for the United Nations Centre for Human Rights. It also requested the Office to increase and improve public information for its constituents, for the general public and for specific groups, such as parliamentarians and members of labour tribunals to promote the Conventions on basic workers' rights. The Governing Body also requested the Office to encourage publications and research on international labour standards, and particularly on fundamental ILO Conventions, in institutions of higher learning in all regions, in cooperation with its constituents.

Other questions

47. As in the past, the Committee notes that the Office has continued its efforts to maintain a constructive synergy between its work and the activities carried out by the United Nations Centre for Human Rights. Mention has been made above of the training carried out by the Turin Centre of the ILO for the United Nations Centre for Human Rights. This has included the publication of a new edition of the *Manual on human rights reporting* by the United Nations, with the assistance of the Turin Centre, in which there is systematic reference to the ILO's fundamental instruments and its supervisory system. Furthermore, the Office continued to participate in United Nations seminars on human rights education in Romania.

48. The United Nations General Assembly requested the Office to work closely with the Coordinator of the International Decade of the World's Indigenous People (1994-2004), which it has done. The Office also continued to participate in the examination of a United Nations Draft Declaration on Indigenous Rights. Furthermore, the Office continued to develop a series of activities for the promotion of ILO Conventions on indigenous and tribal peoples, including the provision of assistance to these peoples for their development. These activities are financed by the regular budget and, increasingly, with the assistance of international donors such as the Danish Government and the Government of the Netherlands, as well as in cooperation with the World Bank and the United Nations Development Programme.

Questions concerning the application of Conventions

Application of the Employment Policy Convention, 1964 (No. 122)

49. The Committee continued its examination of reports from over 50 countries on the application of the Convention in the period 1992-94. Its comments thus ensue from those appearing in paragraphs 62 to 64 of its previous report, which were discussed in the Conference in June 1995. The Committee takes note of that discussion. The Committee's comments this session have as usual had the enormous benefit of the support of the Employment Department and its Director, who, on the invitation of the Director of the Standards Department, also addressed the Committee in plenary sitting. There follow some general comments of the Committee on the development of the employment situation and policies pursued in relation to the Convention.

50. In the industrialized countries (Europe, Canada, Australia, New Zealand), massive unemployment has a strong structural component and a highly inequitable nature, even despite a slight improvement in employment at the end of the period, in slow and weak response to a resumption of economic growth. What is most worrisome is the persistent and seemingly irreversible long-term unemployment (for example, in several States of the European Union over 40 per cent of unemployment is of one year or more), which no longer seems limited to older or marginalized workers but also hits many younger people (Greece, Ireland, Italy, Spain). The unemployment rate, which is the most common indicator, fails adequately to describe the changing employment market: this is not only because the "statistical treatment" of unemployment is fairly frequent, but also because a more precise assessment of the scale of the problem calls for consideration of lower participation rates (the phenomenon of "discouraged workers" who withdraw from the active population or youngsters who extend their schooling or training), high rates of part-time work, mostly involuntary (particularly among women), increase in casual employment, and recourse to partial or subsidized unemployment. Even one of the few exceptional countries as regards employment and unemployment — Japan — witnessed a deterioration in the employment situation and is experiencing heavy underemployment.

51. In the countries of eastern and central Europe, the new problems of widespread unemployment have largely been responsible for bringing social questions to the fore of the process of what is an uneven and incomplete transition to a market economy. Positive economic growth rates in several countries (Hungary, Slovenia) have not prevented employment growth in the private sector being overtaken by loss of jobs in the state sector; and unemployment has mushroomed between 1990 and 1994 to rates of between 10 and 18 per cent. It is true that very low unemployment rates are given in the reports of various countries of the former Soviet Union (Azerbaijan, Belarus, Russian Federation, Tajikistan, Ukraine), but that seems explicable only by the methodology behind the statistics or by policies which encourage over-staffing in state sector enterprises. Paradoxically, the unemployment rate in these countries seems to point to the establishment of an effective labour market.

52. The employment situation in the developing countries is varying, and on the whole rather hard to define and map out. Given the sectoral distribution of employment (most of which is rural or in the informal sector), data on unemployment rates describe only the modern urban sector. The countries of Latin America have, according to the information provided, recently seen positive results from their global development policies in terms of economic growth and control of inflation. But it is only where growth has been strong (over 5 per cent) that unemployment has been reduced and real wage levels increased (Brazil, Chile). Recent reports of ILO specialists in the field show that in the first half of 1995 economies are fragile and employment and wage growth are arrested, particularly by the effect of new structural adjustment policies. In the countries of Africa, though government reports do not conceal the shortcomings in statistical machinery which would enable employment levels and trends to be determined, it is clear that rapid demographic increase, sluggish economic growth and the short-term effects of structural adjustment programmes combine to worsen an employment and income profile which is already weakened by the unacceptable trend towards the "marginalization of Africa" described in the ILO's *World Employment 1995*, as all the more alarming since in most cases per capita growth "has barely even been positive".

53. Whether it takes the form of open unemployment, underemployment or "casualization" of employment, deterioration of the employment situation is not without cost and consequence, and the Committee has drawn attention to this, in particular as regards the safeguard of workers' fundamental rights. The Committee therefore welcomes the views expressed, for example, in the resolution concerning employment and tripartism in Europe (adopted in 1995 at the Fifth European Regional Conference of the ILO), which stresses that "current levels of unemployment are unacceptable, wasteful, and a serious threat to ... social cohesion ..."; or the Copenhagen Declaration on Social Development, which affirms that "poverty, lack of productive employment and social disintegration are an offence to human dignity". The unchecked growth of unemployment contains within it the seeds of a yet greater risk: the collapse or destruction of mechanisms which ensure social protection and ultimately the protection of legality itself in the labour field.

54. Against this background, which would suggest that the Convention's goal of full, productive employment is still a long way off, the Committee nevertheless discerns some positive signs both in governments' attitudes to their obligations and in the interest in the Convention, reaffirmed or regained, inside and outside the ILO.

55. Many governments now say in their reports that they give a high priority to employment; some have recently even gone so far as to insert the right to work or the full employment objective into constitutions or legislation. Information on the implementation of such aims is, at the same time, less convincing. Reports are most often drafted by labour ministries and tend to concentrate on labour market policies, whilst the Convention clearly envisions the extension and integration of employment policy — even if this is not exactly defined — into a more general economic and social policy. This approach, reflected in the report form adopted by the Governing Body, is the basis for the Committee's frequent queries as to macroeconomic policies and their employment consequences and as to the link between employment and other economic and social objectives. The Committee would also underline the interdependence of the ILO's standards, in the hope of contributing to comprehensive policy formulation by, where it seems relevant, pointing out the connections between this Convention and other standards, such as those on human resources development, employment services, termination of employment, or unemployment protection.

56. The detailed information on labour market policy measures supplied regularly by governments (especially of industrialized countries) shows their willingness to give greater stress to "active" measures, i.e. those intended to have a positive effect on the level of employment, as compared with "passive" measures such as income support (through unemployment benefit) or reduction of the active population. It is very hard for the Committee to obtain information enabling it to evaluate such measures, in spite of the requests it has been addressing to governments for many years. In the absence of detail, it notes that the effectiveness of such measures is more and more questioned, including by the OECD. Furthermore, the usefulness of dealing with unemployment at the social level should not be underestimated, especially in the countries in transition — which had no previous experience of it and were therefore ill prepared — and more generally in the developing countries, which are so vulnerable to the high social cost of rigorous stabilization and structural adjustment policies. The Conference's 1988 adoption of Convention No. 168 shows employment policy and unemployment protection must be seen in a dynamic, dialectical relation. The Committee is aware of the difficulties facing developing countries which have to translate the Convention's principles into reality and has therefore been all the more interested in the technical cooperation activities carried on in many countries by multidisciplinary teams to help in the formulation and implementation of policies complying with those principles.

57. The Committee welcomes the Governing Body decision in November 1995 to exclude Convention No. 122 from revision, given its "priority" standing. It further welcomes the fact that the cardinal principles of the Convention have been endorsed by the international community at the World Summit for Social Development. The Copenhagen Declaration on Social Development adopted in March 1995 in fact constitutes an undertaking by all Heads of State to favour the achievement of the aim of full, productive, freely chosen employment, with strict observance of workers' rights and with the participation of employers and unions. As the Director of the Employment Department remarked in his statement to the Committee, this undertaking confers an even more universal status on Convention No. 122, and the follow-up role assigned to the ILO by the Summit should both enable the supervisory mechanism to be used to make the link with the re-examination of employment policies and provide an opportunity to promote ratification of the Convention. For this reason, the Committee welcomes the call for ratification and application of Convention No. 122 contained in the resolution of the Fifth European Regional Conference cited above, and it notes that there have been 11 ratifications during the reporting period and to date in the countries of Asia, Latin America and Eastern and Central Europe.

Application of Conventions on social security

58. In recent years the Committee has noted that according to information supplied by governments, the principal concern is management and rationalization of social security resources. In many countries, various branches of social security have been gradually subjected to a reform process focused mainly on preserving the financial viability of the systems and improving the cost/effectiveness ratio. The most commonly observed reforms involve greater participation of beneficiaries in the cost of medical care, stricter conditions for access to benefits (including unemployment benefit), raising the age of retirement and new methods of calculating the remuneration taken into account for the pension, spread over a longer period, or even over the entire career of the person concerned. These measures which often go along with a direct decline of the level of allowances, have enabled certain immediate reductions to be made in social security expenditure.

59. The Committee observes that at present this process of reform is expanding and tending to have greater consequences. Countries are seeking solutions viable in the long-term and some are continuing to experiment with new forms of social security system management, particularly privatization, which raise serious problems. This reform process demands renewed attention to international standards on social security as demonstrated by the increasing number of observations received from employers' and workers' organizations. The Committee is fully aware that these reforms have an effect on the well-being of the greater part of the population and have become a social and political issue of the first order in many countries. It considers it essential that the interests of the people protected, and especially the level of social protection, should be taken fully into consideration and that the representatives of those protected continue to be involved as far as possible in the reform process. Substantial reforms should not be undertaken hastily to respond to financial pressures and such changes should, in any case, take duly into account the international standards on the subject.

Application of Conventions on safety and health

60. The Committee notes the growing attention of member States paid to issues of safety and health and the working environment. It has been demonstrated partly by the adoption since 1985 of a considerable number of instruments regarding this subject by the International Labour Conference (seven Conventions out of 17, six Recommendations out of 14), and also by a relatively large number of ratifications of Conventions concerning safety and health since the beginning of the 1990s (about 35 ratifications per year, and nearly one-third of total ratifications).

61. The new instruments are characterized by an approach which consists of ensuring a safe and healthy working environment to all workers and of adapting work to their capabilities. To this end, the recently adopted Conventions establish obligations for ratifying States: (i) to formulate and implement a coherent national policy in the field of occupational safety and health in consultation with the most representative organizations of employers and workers; (ii) to provide for favourable conditions for a cooperation between employers and workers for the solution of practical problems of safety and health; and (iii) to take measures for providing employers and workers with advice so as to help them conform to their obligations.

62. The Committee has observed that, in a certain number of countries, the formulation of a national policy in the field of occupational safety and health is done, in conformity with provisions of some of these Conventions,[1] on the basis of comprehensive analyses and studies of the situation in enterprises, which made it possible to have a full consultation with employers and workers as well as to adopt regulations adapted to the needs and to the human and material resources of the country. The periodical review of this national policy should be an occasion for all countries that have not yet done so to make sure that the national conditions and practices are duly taken into account with a view to fully attaining the objectives of the Conventions and avoiding proliferation of ineffective and unsuited regulations.

63. The examination of the application of the Conventions in large enterprises reveals that generally they are well organized regarding occupational safety and health, but have certain deficiencies which the Committee has noted in its comments. However, the situation is far more worrying in small enterprises which, because of the need for flexibility, have their services subcontracted in almost any branch of the economy, particularly in construction, the service sector or domestic service. Frequently, persons working in such small enterprises are unprotected in dangerous places with many health risks. Generally speaking, the national legislation giving effect to international Conventions does not cover workers of these small enterprises, who are found both in the formal sector and the informal sector of the economy, as they are not always considered legally as employees in the sense of the Conventions. Other elements that constitute obstacles to the application of the Conventions in these enterprises include, for instance, the absence of education and information on the safety and health issues and the difficulties for the inspection services to intervene because of the nature and the dispersion of the enterprise.

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[1] Article 2 of Convention No. 161; Article 4 of Convention No. 170; Article 4(1) of Convention No. 174.

64. The increasing number of observations from employers' and workers' organizations on the application of Conventions concerning occupational safety and health bear testimony to the growing consciousness in large or medium-sized enterprises. The Committee will continue to examine with care the state of application of these instruments, drawing, where appropriate, the attention of governments, employers and workers to the necessity of clearly defining the means of implementation so as to attain the objectives fixed by the Conventions and of disseminating information on the objectives and the means as widely as possible, in particular in small units of production.

Application of the Radiation Protection Convention, 1960 (No. 115)

65. In 1992, the Committee commented on the application of the Convention in a general observation, and requested the governments to review their system of protection of workers against ionizing radiation, in the light of the findings set out in the 1990 recommendations of the *International Commission on Radiological Protection (ICRP)*, which called for substantially lower maximum permissible doses of ionizing radiations than those applying before. The new exposure limits to ionizing radiations refer not only to workers directly engaged in radiation work, but also to workers who are exposed to radiations that are not directly related to their work, to dose limits for the general public and for pregnant workers. In its general observation, the Committee also referred to emergency situations and to the provision of *alternative employment* for workers having accumulated doses beyond which detriment considered unacceptable is to arise.

66. In 1994, the "*International Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources*" maintained the low dose limits recommended by the "International Commission on Radiological Protection", and affirmed other aspects, in particular the *alternative employment* when a worker may, for health reasons, no longer continue in employment involving occupational exposure.

67. The disaster which occurred in the nuclear plant of Chernobyl and its after effects have clearly shown the necessity of genuine international cooperation and have also drawn attention to the situation of the workers in this plant and of those who participated in the clean-up work. The Conference which took place in November 1995 at the World Health Organization concerning the after effects of the Chernobyl accident is of interest, in particular as to adequate protection for workers in emergency situations. Since the adoption of the general observation by the Committee in 1992, the governments have in general in their reports expressed their willingness to lower dose limits. However, not much information was contained in the reports on provisions for exposure in emergency situations, or on provision of alternative employment. For this reason, in most cases, comments have included requests for such information.

III. Technical assistance in the field of standards

A. Direct contacts and cooperation in the field of standards

68. A large number of activities have been undertaken to promote the more widespread understanding, acceptance, ratification and observance of standards.

69. Since March 1995, several regional and subregional seminars and symposia have been held on international labour standards: a symposium on standards in the Asian and Pacific region (March 1995, Indonesia); a tripartite seminar on national and international labour standards for the Caribbean Region (March 1995, Trinidad and Tobago); three subregional tripartite seminars on legislation and international labour standards for French-speaking Africa (April 1995, Gabon; May 1995, Burkina Faso) and Portuguese-speaking African countries (May-June, 1995, Portugal); a subregional tripartite seminar on the promotion of equality of opportunity and treatment in employment for East-Asian transition economies (April 1995, Thailand); a tripartite workshop on the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) (June 1995, Croatia); a subregional workers' information seminar on international labour standards and workers' rights (July 1995, Costa Rica); and a national workers' information seminar on international labour standards and freedom of association (July 1995, Nicaragua).

70. Programmes continued to be organized to familiarize national labour administration officials with the obligations of member States and ILO procedures relating to Conventions and Recommendations. A course on international labour standards for government officials from Africa, Asia, the Arab States, Europe and Latin America was organized in collaboration with the ILO's International Training Centre (May-June, 1995, Turin) and was attended by 22 participants from the following countries: Angola, Barbados, Brazil, Cape Verde, China, Columbia, Dominican Republic, El Salvador, Kenya, Lao People's Democratic Republic, Mali, Republic of Moldova, Nigeria, Paraguay, Sri Lanka, Tanzania, United Arab Emirates, Venezuela, Yemen, Zambia and Zimbabwe.

71. Activities for cooperation and the promotion of standards also took the form of participation in seminars, workshops and meetings, and the provision of advisory services on international labour standards in or for the following countries: Albania, Argentina, Brazil, Chile, China, Croatia, Eritrea, Estonia, Ethiopia, Guatemala, Kazakhstan, Kenya, Kyrgyzstan, Madagascar, Mexico, Philippines, Russian Federation, Spain, Switzerland, Uganda, United Kingdom, Uzbekistan and Zambia, as well as for the occupied Palestinian territories.

72. Since the last session of the Committee of Experts, comments and consultations on drafts of labour laws and related legislation in the light of ILO standards have been provided to the following countries: Azerbaijan, Congo, Côte d'Ivoire, Jamaica, Lithuania, Malawi, Maldives, Morocco, Panama, Paraguay, Rwanda, Suriname, Ukraine and Uzbekistan. Comments have also been prepared on the labour laws, at the request of the Palestinian Authority.

B. Standards and multidisciplinary advisory teams

73. The Committee noted that specialists in international labour standards were present in eight of the 14 multidisciplinary teams — those in Abidjan, Bangkok, Dakar, Harare, Lima, Port of Spain, San José and Santiago (Chile). The services they provide are, on the one hand, to assist the national constituents in fulfilling their standards-related obligations and ensuring all due consultations take place among governments, employers and workers; and on the other hand to contribute to the work of the teams by promoting the integration of standards considerations into the formulation of country objectives and technical cooperation projects and programmes.

74. The International Labour Standards Department has assisted in this process by supplying the necessary technical back-up to the standards specialists, enabling headquarters officials to undertake missions where standards specialists are not available or to deal with particular problems, and systematically contributing to the country objectives papers drafted by the teams or by ILO area offices. This helps to make sure the necessary attention is given to problems in the application of ratified Conventions and to the need to promote other relevant Conventions, particularly those identified as a priority by the Governing Body and including those on basic workers' rights. In addition, the Department has initiated a series of one-day workshops for team members and other ILO field staff, designed to ensure familiarity with the standard-setting and supervisory procedures and explain their importance to the overall work of the teams and the Office.

75. The Committee notes with interest the emphasis placed by the Standards Department on collaboration with the multidisciplinary teams, in order to ensure the maximum coherence between the Committee's own work and the practical measures taken by the Office to assist member States as regards various social and labour issues. The Committee particularly appreciates the efforts being made by the Office to ensure greater coherence between standards and field activities, in the context of the active partnership policy, and it hopes that the Office will further pursue these efforts.

IV. Role of employers' and workers' organizations

76. At each session, the Committee draws the attention of governments to the role that employers' and workers' organizations are called upon to play in the application of Conventions and Recommendations and to the fact that numerous Conventions require consultation with employers' and workers' organizations, or their collaboration in a variety of measures. The Committee notes with satisfaction that all governments have indicated in the reports supplied under articles 19 and 22 of the Constitution the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, they have communicated copies of the reports supplied to the ILO. All governments have indicated the organizations to which they have communicated copies of the information supplied to the ILO on the submission to the competent authorities of the instruments adopted by the Conference and the reports due under article 19 of the Constitution.

77. In accordance with established practice, the ILO sent to the representative organizations of employers and workers a letter concerning the various opportunities open to them of contributing to the implementation of Conventions and Recommendations, accompanied by relevant documentary material, and a list of the reports due from their respective governments and copies of the Committee's comments to which the governments were invited to reply in their reports.

Observations made by employers' and workers' organizations

78. Since its last session, the Committee has received 159 observations,[2] 38 of which were communicated by employers' organizations and 121 by workers'

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[2] *Argentina*: Union of United Argentine Dockworkers (SUPA) on Conventions Nos. 1, 32, 81; Union of United Maritime Workers (SOMU) on Conventions Nos. 1, 9, 14, 22, 26, 32, 52, 53, 81, 95, 98; World Federation of Trade Unions (FSM) on Convention No. 95; *Bolivia*: National Confederation of Retired Workers and Pensioners of Bolivia on Convention No. 128; *Brazil*: Trade Union of Bank Employees of São Paulo on Convention No. 111; Trade Unions of Workers of the State of Sergipe on Conventions Nos. 81, 148; Union of Fishermen of Angra dos Reis on Convention No. 155; *Canada*: National Trade Unions Confederation (CSN) on Convention No. 111; *Chad*: Trade Union Confederation of Chad on Conventions Nos. 52, 81; *Costa Rica*: Association of Customs Officers (ASEPA) on Conventions Nos. 94, 95, 96, 111, 120, 122, 144, 148; *Croatia*: Union of Autonomous Trade Unions of Croatia on Conventions Nos. 102, 111, 122, 155; *Denmark*: Danish Confederation of Professional Associations (AC) on Convention No. 98; Danish Union of Journalists on Convention No. 98; *Finland*: Central Organization of Finnish Trade Unions (SAK) on Conventions Nos. 111, 158; Confederation of Unions for Academic Professionals in Finland (AKAVA) on Conventions Nos. 111, 158; *France*: Federation of Social, Labour, Employment Protection-CFDT on Convention No. 81; French Democratic Confederation of Labour (CFDT) on Conventions Nos. 29, 105; General Confederation of Labour-"Force ouvrière" (CGT-FO) on Convention No. 44; National Union CGT of Social Affairs (UNAS) on Convention No. 81; *Gabon*: Confederation of Gabonese Free Trade Unions (CGSL) on Conventions Nos. 29, 154; Gabonese Employers' Confederation (CPG) on Conventions Nos. 87, 100, 144, 158; Trade Union Confederation of Gabon (CO.SY.GA.) on Conventions Nos. 6, 12, 29, 45, 81, 98, 154, 158; *Hungary*: Hungarian Employers' Association on Convention No. 111; National Confederation of Hungarian Trade Unions on Convention No. 111; National Federation of Workers' Councils (MOSZ) on Convention No. 87; *India*: All India Trade Union Congress (Tamil Nadu AITUC) on Convention No. 26; *Islamic Republic of Iran*: World Confederation of Labour on Convention No. 111; *Japan*: Osaka Fu Special English Teachers Union (OFSET) on Convention No. 29; *Latvia*: Latvian Free Trade Union Federation (LBAS) on Conventions Nos. 98, 119, 131; *Libyan Arab Jamahiriya*: International Confederation of Free Trade Unions (ICFTU) on Convention No. 95; Palestine Trade Unions' Federation on Convention No. 95; *Mauritius*: Mauritius Employers' Federation (MEF) on Conventions Nos. 81, 98, 105, 144; *Netherlands*: Netherlands' Trade Union Confederation (FNV) on Conventions Nos. 29, 111; *New Zealand*: New Zealand Council of Trade Unions (NZCTU) on Conventions Nos. 81, 111, 144; New Zealand Employers' Federation (NZEF) on Conventions Nos. 111, 144; *Nicaragua*: Rural Workers' Association (ATC) on Convention No. 144; *Norway*: Norwegian Shipping and Offshore Federation on Conventions Nos. 8, 56, 111, 145; *Pakistan*: International Federation of Building and Wood Workers (IFBWW) on Convention No. 87; Pakistan National Federation of Trade Unions (PNFTU) on Conventions Nos. 87, 98; *Peru*: Association of Labour Inspectors of the Ministry of Labour and Social Promotion on Convention No. 81; Association of Retired Oil Industry Workers of the Metropolitan Area of Lima and Callao on Conventions Nos. 35, 102; Federation of Workers in the Lighting and Power Industry of Peru on Conventions Nos. 87, 98;

(continued...)

organizations. It shows again the interest of employers' and workers' organizations in the implementation of ILO standards and reflects the constant efforts made by the supervisory bodies and the Office to give interested organizations complete information on their role in this area.

79. The Committee notes that, of the observations received this year, 90 were transmitted directly to the International Labour Office which, in accordance with the practice established by the Committee, referred them to the governments concerned for comment. In 69 cases the governments transmitted the observations with their reports, sometimes adding their own comments.

80. The Committee also examined a number of other observations by employers' and workers' organizations, consideration of which had been postponed from the last session because the observations of the organizations or the replies of the governments had arrived just before or just after the session. It has had to postpone the examination of a number of observations to its next session, when they were received too close to or even during the Committee's present session to allow sufficient time for the governments concerned to make comments and for the Committee to consider the matters involved.

81. The Committee notes that in most cases the organizations of employers and workers endeavoured to gather and present precise facts on the application in practice of ratified Conventions. It notes that the matters dealt with in these observations have touched on a very wide range of Conventions relating, in particular, to the following subjects: protection of the right to organize and the right to collective bargaining, discrimination, forced labour, minimum wage fixing, employment policy, labour inspection, wage payment, occupational safety and health, tripartite consultations relating to international labour standards, maritime labour. The second part of this report contains most of the comments made by the Committee on cases in which the comments raised matters relating to the application of ratified Conventions. Where appropriate, other comments are examined in requests addressed directly to the governments.

82. The Committee notes lastly that the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), has now received 76 ratifications. Thus, the number of ratifications has more than doubled since the General Survey on the

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(...continued)

Portugal: Confederation of Portuguese Industry (CIP) on Conventions Nos. 111, 144; General Union of Workers (UGT) on Conventions Nos. 81, 98, 105, 111, 144; *Romania*: Hungarian Teachers' Federation of Romania on Convention No. 111; *Russian Federation*: Federation of Independent Trade Unions of Russia (FNPR) on Convention No. 95; Trade Union Committee of the Far-East Plant "Zvezda" on Convention No. 95; *Spain*: General Union of Workers (UGT) on Conventions Nos. 81, 111, 144, 158; Trade Union Federation of Workers' Commissions (CC.OO.) on Conventions Nos. 81, 144, 158; *Sri Lanka*: Ceylon Workers' Congress on Conventions Nos. 81, 98, 100, 160; Lanka Jathika Estate Workers' Union on Convention No. 144; *Turkey*: Confederation of Progressive Trade Unions of Turkey (DISK) on Conventions Nos. 87, 98, 135, 151; Confederation of Turkish Trade Unions (TURK-IS) on Conventions Nos. 14, 26, 59, 81, 88, 98, 105, 111, 122, 135, 142, 144, 151; Turkish Confederation of Employers' Associations (TISK) on Conventions Nos. 14, 26, 59, 81, 87, 88, 98, 111, 122, 135, 142, 144, 151; *Ukraine*: Kharkov Committee of the Trade Union of the Ukrainian National Academy of Sciences on Convention No. 95; *United Kingdom*: Trades Union Congress (TUC) on Conventions Nos. 87, 98; *Uruguay*: Inter-Union Assembly of Workers-National Convention of Workers (PIT-CNT) on Convention No. 153; *Venezuela*: International Organization of Employers (OIE) on Conventions Nos. 81, 87, 88, 100, 111, 143, 144, 158.

Convention in 1982, which noted favourable prospects in this respect.[3] The Committee hopes that many other countries will be able to ratify it, all the more since some have recently adopted provisions to establish tripartite bodies for ILO activities, with reference to the 1976 instruments.

V. Reports on ratified Conventions (articles 22 and 35 of the Constitution)

Supply of reports

83. The Committee's principal task consists of the examination of the reports supplied by governments on Conventions which have been ratified by member States or which have been declared applicable to non-metropolitan territories.

84. In accordance with the decision to rearrange the regular supervisory procedures, adopted by the Governing Body at its 258th Session (November 1993),[4] detailed reports were, as an exception, requested on only five Conventions.[5] These reports cover the period ending 1 June 1995. Furthermore, detailed reports were also requested from certain governments on other Conventions, in accordance with the criteria approved by the Governing Body concerning the obligation to send reports more frequently.[6]

85. The new arrangements governing the regular supervisory procedures will be fully implemented as of 1996. These new arrangements are described in detail in the "Handbook of procedures relating to international labour Conventions and Recommendations", which indicates the provisions concerning the procedures to be followed and established practice with regard to the obligations relating to international labour standards.

Reports requested and received

86. A total of 1,252 detailed reports were requested from governments on the application of Conventions ratified by member States (article 22 of the Constitution). At the end of the present session of the Committee, 824 of these reports had been received by the Office. This figure corresponds to 65.0 per cent of the reports requested, compared with 68.7 per cent last year. The Committee regrets that, as indicated in paragraph 99 below, a number of reports received are incomplete and do not enable it to reach conclusions regarding the application of the Conventions concerned. A table showing reports received and not received, classified by country and by Convention, is to be found in Part II (section I, Appendix I). Another table (section I, Appendix II) shows, for each year in which the Committee has met since 1933, the number and percentage of reports received by the prescribed date, by the date of the meeting of the Committee, and by the date of the session of the International Labour Conference.

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[3] International Labour Conference, 68th Session, Geneva, 1982, Report III (Part 4(B)), para. 202.

[4] ILO: *Report of the Committee on Legal Issues and International Labour Standards*, GB.258/6/19, 258th Session, November 1993.

[5] Conventions Nos. 81, 98, 105, 111 and 144.

[6] GB.258/LILS/6/1 (November 1993), para. 12(c).

87. In addition, 199 reports were requested on Conventions declared applicable with or without modifications to non-metropolitan territories (articles 22 and 35 of the Constitution). Of these, 62 reports, 31.1 per cent, had been received by the end of the Committee's session, in comparison with 73.9 per cent in February-March 1995. A list of the reports received and not received, classified by territory and by Convention, is to be found appended to section II of Part Two of this report.

88. In those cases in which the reports were not accompanied by copies of the relevant legislation, statistical data or other documentation necessary for their full examination, and where this material was not otherwise available, the Office, as requested by the Committee, wrote to the governments concerned asking them to supply the necessary texts to enable the Committee to fulfil its task.

Compliance with reporting obligations

89. Most of the governments from which reports were due on the application of ratified Conventions have supplied all or most of the reports requested, as can be seen from Appendix I, Part II, section I. However, 34 governments have not complied with their obligation to supply reports on ratified Conventions. Thus, all or the majority of the reports due this year have not been received from the following countries: Angola, Armenia, Barbados, Bolivia, Djibouti, France Metropol and French Southern and Antarctic Territories, French Guiana, Guadeloupe, Martinique, Réunion, Saint Pierre and Miquelon, Grenada, Guinea, Iraq, Luxembourg, Republic of Moldova, Netherlands (Aruba), Paraguay, Senegal, Seychelles, Sierra Leone, Sri Lanka, Uganda, United States (American Samoa, Guam, Northern Mariana Islands, Puerto Rico, United States Virgin Islands). No reports have been received for the past two or more years from the following countries: Albania, Bosnia and Herzegovina, Burundi, Equatorial Guinea, Ghana, Haiti, Liberia, Lithuania, Papua New Guinea, St. Lucia, Solomon Islands, Sao Tome and Principe, Somalia, Yemen, Zaire.

90. The Committee urges the governments of these countries, and also of those which have sent only some of the reports due, to make every effort to supply the reports requested on ratified Conventions. Where no reports have been sent for a number of years, it is likely that particular problems of an administrative or technical nature are preventing the government concerned from fulfilling its obligations under the ILO Constitution, and it may be that in cases of this kind assistance from the Office, in particular with the help of members of multidisciplinary advisory teams who are specialists on international labour standards, could enable the government to overcome its difficulties.

Late reports

91. The Committee is once again bound to emphasize the importance of communicating reports in due time. This year, for the first time, the reports due on ratified Conventions were to be sent to the Office between 1 June and 1 September 1995. Due consideration is given, when fixing this date, to the time required to translate the reports, where necessary, to conduct research into legislation and other necessary documents, and to examine reports and legislation, etc. The supervisory procedure can function correctly only if reports are communicated in due time. This is particularly true in the case of first reports or reports on Conventions where there are serious or continuing discrepancies, which the Committee has to examine in greater depth.

92. The Committee observes that the great majority of reports are received between the time-limit fixed and the date on which the Committee meets: by 1 September 1995, the proportion of reports received was only 38.2 per cent. This is much higher than for its previous session (16.4 per cent). Nevertheless, the Committee is still concerned, since it notes that it is often first reports and those relating to Conventions on which the Committee has made comments that are received the latest. In these circumstances, the Committee has been bound in recent years to postpone to its following session the examination of an increasing number of reports, since they could not be examined with the necessary care owing to lack of time. It has thus had to examine a number of reports at its present session held over from its previous session.

93. The Committee trusts that, in the context of the adjustments to the regular supervisory procedures which comes into force in 1996, governments will in future endeavour to observe the time-limits laid down for the sending of their reports so that it can carry out its supervisory function adequately.

94. Furthermore, the Committee notes that a number of countries have sent the reports due on ratified Conventions during the period between the end of the Committee's work and the beginning of the International Labour Conference, or even during the Conference.[7] The Committee emphasizes that this practice disturbs the regular operation of the supervisory system and makes it more burdensome.

Supply of first reports

95. A total of 93 of the 144 first reports due on the application of ratified Conventions were received by the time that the Committee's session ended. However, a number of countries have failed to supply first reports, some of which are more than a year overdue. Thus, certain first reports on ratified Conventions have not been received from the following States: since 1992 — France: French Southern and Antarctic Territories (Conventions Nos. 53, 69, 74, 92, 133 and 134), Guinea (Convention No. 160), Liberia (Convention No. 133), Nigeria (Convention No. 133); since 1993 — Luxembourg (Conventions Nos. 53, 68, 69, 73, 74, 92, 108, 147 and 166), Yemen (Convention No. 159); and since 1994 — Latvia (Conventions Nos. 111, 122, 135 and 151), Sao Tome and Principe (Conventions Nos. 87, 106 and 159), Swaziland (Convention No. 160).

96. The Committee recalls that particular importance attaches to first reports on the basis of which it makes its initial assessment of the observance of ratified Conventions. It therefore requests the governments concerned to make a special effort to supply these reports.

Replies to the comments of the supervisory bodies

97. Governments are requested to reply in their reports to the observations and direct requests of the Committee, and the majority of governments have provided the replies requested. In accordance with the established practice, the International Labour

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[7] For the reports received and not received by the end of the Conference, see Report of the Committee on the Application of Standards, Part Two, IC and IIB.

Office wrote to all the governments who failed to provide such replies, requesting them to supply the necessary information. Of the 20 governments to which such letters were sent, only nine have provided the information requested.

98. The Committee notes with concern that there are still many cases of failure to reply to its comments; either:

(a) out of all the reports requested from governments, no report or reply has been received; or

(b) the reports received contained no reply to most of the Committee's comments (observations and/or direct requests) and/or did not reply to the letters sent by the Office.

99. In all there were 181 such cases,[8] as compared to 337 last year and 354 the previous year. Although noting an improvement in the situation in comparison to the two previous years, the Committee observes that the number of these cases is still very high. It is bound to repeat the observations or direct requests already made on the Conventions in question.

100. The failure of the governments concerned to fulfil their obligations considerably hinders the work of the Committee of Experts and that of the Conference Committee, and the Committee of Experts cannot overemphasize the special importance of ensuring the dispatch of the reports and replies to its comments on time.

Examination of reports

101. In examining the reports received on ratified Conventions and Conventions declared applicable to non-metropolitan territories, the Committee has followed its usual practice of assigning to each of its members the initial responsibility for a group of Conventions. Reports received early enough are sent to the members concerned in advance of the Committee's session. The members submit their preliminary conclusions on the instruments for which they are responsible to all their colleagues for their examination. These conclusions are then presented to the Committee in plenary sitting by their respective authors for discussion and approval. Decisions on comments are adopted by consensus, without prejudice to experts who wish to put forward different opinions, as was the case in the past.

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[8] ***Angola*** (Conventions Nos. 105, 107, 111); ***Belarus*** (Convention No. 111); ***Bolivia*** (Conventions Nos. 5, 14, 87, 98, 106, 111, 160); ***Burundi*** (Conventions Nos. 11, 81, 94); ***Cameroon*** (Conventions Nos. 94, 98, 132, 162); ***Djibouti*** (Conventions Nos. 24, 55, 81, 88, 94, 95, 100, 106, 115, 120, 122); ***Equatorial Guinea*** (Convention No. 100); ***France*** (Conventions Nos. 27, 111, 133, 152), Guadeloupe (Conventions Nos. 13, 81, 100, 131, 149), French Guiana (Conventions Nos. 13, 81, 100, 149), Martinique (Conventions Nos. 13, 81, 100, 149), Réunion (Conventions Nos. 13, 81, 100, 149), St. Pierre and Miquelon (Conventions Nos. 13, 44, 77, 78, 81, 100, 149), French Southern and Antarctic Territories (Conventions Nos. 8, 16, 22, 23, 53, 58, 68, 69, 73, 74, 87, 92, 98, 108, 133, 134, 146, 147); ***Guinea*** (Conventions Nos. 81, 98, 111, 133); ***Haiti*** (Conventions Nos. 14, 24, 25, 29, 42, 81, 87, 98, 100, 106, 111); ***Iraq*** (Conventions Nos. 81, 98); ***Liberia*** (Conventions Nos. 22, 29, 87, 98, 105, 111, 114); ***Netherlands:*** Aruba (Conventions Nos. 14, 94, 95, 101, 105, 106, 122, 131, 137, 144, 146); ***Papua New Guinea*** (Conventions Nos. 8, 29, 98, 105, 122); ***Saint Lucia*** (Conventions Nos. 5, 17, 19, 87, 94, 95, 97, 98, 100, 111); ***Sao Tome and Principe*** (Conventions Nos. 17, 18, 88, 100, 111); ***Senegal*** (Conventions Nos. 111, 122); ***Seychelles*** (Convention No. 105); ***Sierra Leone*** (Conventions Nos. 81, 98, 101); ***Solomon Islands*** (Conventions Nos. 8, 14, 26, 29, 81, 95); ***Somalia*** (Convention No. 111); ***Sri Lanka*** (Conventions Nos. 81, 98); ***United Republic of Tanzania*** (Conventions Nos. 94, 105, 134); ***Yemen*** (Conventions Nos. 95, 98, 111, 132, 135, 156); ***Zaire*** (Conventions Nos. 29, 81, 88, 94, 95, 98, 100, 102, 117, 121, 150, 158).

Observations and direct requests

102. In the majority of cases, the Committee has found that no comment is called for regarding the way in which a ratified Convention has been implemented. In other cases, however, the Committee has found it necessary to draw the attention of the governments concerned to the need to take further action to give effect to certain provisions of Conventions or to supply additional information on given points. As in previous years, its comments have been drawn up in the form either of "observations" which are reproduced in the Report of the Committee, or "direct requests", which are not published in the report, but are communicated directly to the governments concerned.[9]

103. As in the past, the Committee has indicated by footnotes the cases in which, because of the nature of the problems met in the application of the Conventions concerned, it has seemed appropriate to ask the Government to supply a detailed report earlier than would otherwise have been the case. Under the system of spacing out reports, which applies to most Conventions, such early reports have been requested after an interval of either one or two years, according to circumstances. In some instances, the Committee has also requested the Government to supply full particulars to the Conference at its next session in June 1996.

104. The observations of the Committee appear in Part Two (sections I and II) of this report, together with a list under each Convention of any direct requests. An index of all observations and direct requests, classified by country, is provided at the beginning of this report.

Cases of progress

105. In accordance with its usual practice, the Committee has drawn up a list of the cases in which it has been able to express its satisfaction at certain measures taken by governments to make the necessary changes in their country's law or practice following comments by the Committee on the degree of conformity between national law or practice and the provisions of a ratified Convention. Details concerning the cases in question are to be found in Part II of this report and cover 37 instances in which measures of this kind have been taken in 26 States. The full list is as follows:

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[9] ILO: *Handbook of procedures relating to international labour Conventions and Recommendations*, Geneva, 1995, para. 54(k).

Cases of progress	*Conventions Nos.*
Algeria	77, 78
Austria	98
Azerbaijan	87
Brazil	42, 111
Burkina Faso	81, 129
Canada	105
Cape Verde	111
Côte d'Ivoire	81, 136
Dominican Republic	81
Ecuador	130
Egypt	111
Ethiopia	98
Gabon	87, 95, 98
Germany	111
Greece	98
Guinea-Bissau	81
Latvia	87
Lesotho	45
Mozambique	105
Panama	52, 87
Philippines	105
Poland	115
South Africa	42
Switzerland	111
Tunisia	8, 22, 23, 91
United Kingdom	105, 147

106. Thus, the total number of cases in which the Committee has been led to express its satisfaction with the progress achieved following its comments has risen to 2,107 since the Committee began listing them in its reports in 1964. In addition, there have been many cases in which the Committee has been able to note with interest various measures that have been taken following its comments with a view to ensuring a fuller application of ratified Conventions. All these cases provide an indication of the efforts made by governments to ensure that their national law and practice are in conformity with the provisions of the ILO Conventions they have ratified.

107. These cases do not, however, as the Committee regularly points out, exhaust the instances in which Conventions and Recommendations have a measurable influence on the law and practice of member States. For example, the Committee has again noted a number of cases this year in which it is clear from the first report on the application of a Convention that new legislative or other measures were adopted shortly before or after ratification.

Practical application

108. As in previous years, the Committee has been concerned with assessing, on the basis of the information available, the extent to which national legislation giving effect to ratified Conventions is applied in practice. A number of questions designed to elicit information on this point are included in the report forms approved by the Governing Body for the Conventions, and the replies of governments to these questions constitute an appreciable, though uneven, source of information on practical application available to the Committee. The Committee has also taken into account other authoritative sources of information. These consist, in particular, of the annual reports of labour inspection services, statistical yearbooks published in the States or by the ILO, observations of employers' or workers' organizations, compilations of judicial or administrative decisions, reports on direct contacts, reports on technical cooperation projects and missions, and other official publications such as manuals, studies and economic and social development plans.

109. The Committee notes with interest that this year some 73.4 per cent of the reports supplied on Conventions for which information on practical application was specifically requested contained such data. Although this percentage is higher than in any of the recent years, the Committee reiterates its appeal to governments to make every effort to include the information requested in their reports.

110. The following countries have provided information on practical application in more than half the reports concerned: Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Brazil, Colombia, Côte d'Ivoire, Croatia, Czech Republic, Denmark, Dominican Republic, Ecuador, Finland, France, Germany, Guatemala, Guinea, Islamic Republic of Iran, Iraq, Israel, Italy, Kenya, Malawi, Mauritania, Morocco, Mozambique, Netherlands, Niger, Norway, Panama, Peru, Poland, Romania, San Marino, Slovenia, Spain, Suriname, Tunisia, Turkey, Ukraine, United Kingdom, Uruguay, Venezuela, Yemen, Zambia.

111. The Committee wishes particularly to thank governments that have given information on practical application in their reports, as this information has greatly helped it in assessing more accurately the extent to which ratified Conventions are actually applied in these countries.

112. As in previous years, the Committee has addressed direct requests to certain countries which have not replied to the questions in the report forms on practical application. The Committee notes that, again this year, the majority of the countries in question are developing countries and that certain of them have referred specifically to difficulties of a financial and/or administrative nature which are preventing them from compiling the statistical and other information requested. The Committee is of the opinion that these are also cases in which technical assistance from the International Labour Office, particularly when provided by the multidisciplinary advisory teams, could assist in overcoming the difficulties in question.

113. The Committee also notes with interest the judicial and administrative decisions on questions of principle relating to the application of ratified Conventions to which certain countries have referred in their reports. It noted that 39 reports contain information of this kind and thereby shed additional light on the problems raised in these cases by the practical application of the Conventions in question.

114. For many years, the Committee has been noting that provisions concerning sanctions to secure observance of the measures in pursuance of Conventions to ensure their application are often inadequate because the sanctions laid down do not have a sufficiently dissuasive effect, particularly where violations of basic workers' rights are concerned, which should give rise to penal sanctions especially when sanctions are provided for by the ILO Conventions and be followed by measures of compensation. It once again draws attention to the importance of establishing effective sanctions and of adapting monetary penalties, particularly in countries with high rates of inflation, in such a way that they exert an effective preventive influence against acts contrary to the guarantees laid down by international labour Conventions. The Committee again requests governments to indicate in their reports the measures taken to examine the need to adapt monetary penalties from time to time in the light of inflation or to determine the amount of such penalties in such a way as to take account of currency fluctuations.

VI. Submission of Conventions and Recommendations to the competent authorities

(article 19, paragraphs 5, 6 and 7, of the Constitution)

115. In accordance with its terms of reference, the Committee this year examined the following information[10] supplied by the governments of member States, pursuant to article 19 of the Constitution of the International Labour Organization:

(a) information on the steps taken to submit to the competent authorities within the time-limit of 12 or 18 months, as provided for in the Constitution, the following instruments adopted at the 81st Session of the Conference (1994): the Part-Time Work Convention (No. 175) and Recommendation (No. 182), 1994;

(b) additional information on the steps taken to submit to the competent authorities the instruments adopted by the Conference from its 31st (1948) to its 80th (1993) Sessions (Conventions Nos. 87 to 174 and Recommendations Nos. 83 to 181);

(c) replies to the observations and direct requests made by the Committee at its Session in February-March 1995.

81st Session

116. The Committee notes with interest that the governments of the following member States have indicated that they have submitted to the authorities considered by them to be competent the instruments adopted by the Conference at its 81st Session: Australia, Bahamas, Barbados, Belarus, Cape Verde, Côte d'Ivoire, Cyprus, Denmark, Egypt, Ethiopia, Gabon, Iceland, Indonesia, Islamic Republic of Iran, Italy, Japan, Republic of Korea, Kuwait, Lao People's Democratic Republic, Luxembourg, Malawi, New Zealand, Nicaragua, Norway, Panama, Philippines, Poland, Romania, Russian Federation, San Marino, Saudi Arabia, Singapore, Slovakia, Togo, Tunisia, Turkey, Ukraine, United Arab Emirates and United States.

31st to 80th Sessions

117. The Committee notes with interest that considerable efforts have been made by several governments to submit instruments adopted by the Conference since its 31st Session to the competent authorities, particularly in the following cases: Bangladesh (70th, 71st, 74th, 75th, 76th, 77th (Convention No. 171 and Recommendation No. 178) and 80th Sessions); Italy (78th, 79th, 80th and 81st Sessions); Kenya (65th to 80th

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[10] ILC: *Summary of information on the submission to the competent authorities of Conventions and Recommendations adopted by the International Labour Conference*, Report III (Part 3), 82nd Session, Geneva, 1995.

Sessions); Lao People's Democratic Republic (48th to 65th, 80th and 81st Sessions); Malawi (55th (Recommendations Nos. 137, 138, 139, 140, 141 and 142), 56th (Recommendation No. 144), 58th (Recommendations Nos. 145 and 146), 59th (Recommendations Nos. 147 and 148), 60th (Convention No. 143 and Recommendations Nos. 149, 150 and 151), 62nd (Convention No. 145 and Recommendations Nos. 153, 154 and 155), 63rd (Recommendation No. 156), 64th (Recommendations Nos. 158 and 159), 65th (Recommendations Nos. 160 and 161), 66th, 67th (Recommendations Nos. 163, 164 and 165), 69th (Recommendation No. 167), 70th (Recommendation No. 169), 71st (Recommendations Nos. 170 and 171), 72nd (Recommendation No. 172), 74th (Recommendations Nos. 173 and 174), 75th (Recommendations Nos. 175 and 176), 76th, 77th, 78th, 79th, 80th and 81st Sessions); Pakistan (75th, 76th, 77th, 78th, 79th and 80th Sessions) and Sri Lanka (75th, 76th, 77th and 78th Sessions).

118. The table in Appendix I to section III of Part Two of the report of the Committee shows the position of each member State as it emerges from the information supplied by the governments, with regard to the discharge of the obligation to submit Conventions and Recommendations adopted by the Conference to the competent authorities. Appendix II shows the overall position in this respect for the instruments adopted from the 31st to the 81st Sessions of the Conference.

General aspects

119. The Committee notes with concern that many countries are late — sometimes very late — in submitting to the competent authorities the instruments adopted by the Conference. In other cases, submission does not appear to have been accompanied by proposals on the action to be taken concerning the instruments being considered.

120. The Committee wishes to emphasize that the submission to the competent authorities of the instruments adopted by the Conference is a fundamental obligation which constitutes the indispensable first step in implementing international labour standards. In order that national authorities may be kept up to date on the standards adopted at the international level, which may require action in each State so as to give effect to them at the national level, submission should be made as early as possible and in any case within the time-limits set by article 19 of the ILO Constitution. Governments, however, remain entirely free to propose any action which they may judge appropriate in respect of Conventions and Recommendations. The principal aim of the submission is to encourage a rapid and responsible decision by each member State on the Conventions and Recommendations adopted by the Conference on this subject, an observation was submitted to the Committee by a workers' organization.[11]

Comments of the Committee and replies from governments

121. In section III of Part Two of this report, the Committee makes individual observations on the points that it considers should be brought to the special attention of governments. In addition, requests with a view to obtaining supplementary information on other points have also been addressed directly to a number of countries, which are listed at the end of section III.

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[11] Uruguay: Inter-Union Assembly of Workers — National Convention of Workers (PIT-CNT).

122. The Committee once again regrets to note that a number of governments have again failed to provide replies to its comments, even after reminders have been sent by the Office in accordance with the request made to it by the Committee (see Part Two, section III of this report). The Committee again expresses the hope that governments will endeavour in future to supply all the required information and documents.

123. The Committee wishes once more to point out the importance of the communication by governments of the information and documents called for in points I and II of the questionnaire in the Memorandum adopted by the Governing Body. Some governments do not communicate the information and documents in question. The Committee trusts that the governments concerned will take suitable measures to comply with the Memorandum on submission to the competent authorities.

Special problems

124. The Committee is bound to note with regret that no information has been supplied by the following 24 governments showing that the Conventions and Recommendations adopted by the Conference during at least the last seven sessions (from the 74th to the 80th Sessions)[12] have in fact been submitted to the competent authorities: Algeria, Antigua and Barbuda, Cameroon, Central African Republic, Congo, Djibouti, Ecuador, El Salvador, Guinea, Guyana, Haiti, Jamaica, Lesotho, Libyan Arab Jamahiriya, Madagascar, Mozambique, Paraguay, Saint Lucia, Seychelles, Solomon Islands, United Republic of Tanzania, Thailand, Trinidad and Tobago and Zaire. The fact that so many countries have accumulated a long backlog in this context is a cause of deep concern to the Committee. Indeed, there is a danger that certain countries may find it very difficult to bring themselves up to date. What is more, neither the legislative authorities nor public opinion in these countries are regularly informed of the existence of new instruments as the Conference adopts them, which defeats the real purpose of the obligation to submit explained in paragraph 120 above.

125. In this context, the Committee would like to point out once again that the obligation of submission does not imply that governments must ratify the Conventions or accept the Recommendations in question. The Committee therefore expresses the firm hope that the governments concerned will promptly undertake to submit the instruments adopted at the sessions indicated and that it will be able to note the progress made in this respect in its next report. The Committee finally recalls that governments have the possibility of asking the International Labour Office for the technical assistance which it is able to provide, particularly through the multidisciplinary advisory teams, to endeavour to solve this type of problem.

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[12] The Conference did not adopt any Convention or Recommendation at its 73rd Session (June 1987).

Submission of certain instruments to the appropriate authorities of the European Union

126. Since the last session of the Committee (March 1995), one Member State of the European Union (Greece) stated that it had submitted the Protection of Workers' Claims (Employer's Insolvency) Convention (No. 173) and Recommendation (No. 180), 1992, and the Prevention of Major Industrial Accidents Convention (No. 174) and Recommendation (No. 181), 1993, to the competent authorities of the European Union. In its report, the above Government stated that the consultations provided for in article 23, paragraph 2, of the ILO Constitution and by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), would be pursued at the national level.

127. The Committee trusts that member States, when they participate in the work of the bodies of the European Union responsible for deciding on the ratification of a Convention, will continue to work for the attainment of the objectives of the ILO by endeavouring in good faith to envisage the ratification of international labour Conventions whenever conditions make this possible.

VII. Special reports on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), from countries that have not ratified it

128. To strengthen the procedures for supervising the constitutional obligation of non-discrimination, the ILO Governing Body decided at its 208th (November 1978) and 209th (February-March 1979) Sessions, that Governments of countries which have not ratified the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), should be asked to submit reports under article 19 of the ILO Constitution every four years. At the time of its decision, the Governing Body specified that governments should only be asked to reply to a limited number of questions, essentially concerning the difficulties of ratification, measures envisaged to overcome them and the prospects of ratification in the near future.

129. To date, such reports on Convention No. 111 have been requested in 1979, 1983 and 1981. In 1980, 1984 and 1992, the Committee included a section in its General Report summarizing and commenting on the information received and evaluating ratification prospects. In 1987, detailed reports requested under article 19 of the Convention and its accompanying Recommendation, and they were used, along with the reports submitted under articles 22 and 35 of the Constitution by States that have ratified Convention No. 111, as a basis for the Committee's General Survey of 1988 concerning equality in employment and occupation. This is therefore the third time that the Committee has been called upon to examine reports under the special procedure established by the Governing Body.

130. A total of 52 reports were requested and 24 received. This represents 46 per cent of the reports requested.

Special Survey

131. Part Three of this report (issued separately as Report III (Part 4B)) contains the Special Survey of the Committee in respect of Convention No. 111 in accordance with the procedure described above. In view of the decision taken by the Governing Body at its 261st Session (November 1994) to confine the General Survey, for this session of the Committee, to the four-yearly special reports on Convention No. 111, the practice followed in previous years for the Committee's General Surveys has also been followed for this special survey. This survey has therefore been prepared on the basis of a preliminary examination by a working party comprising five persons appointed by the Committee from among its members.

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132. Lastly, the Committee would like to express its appreciation for the invaluable assistance again rendered to it by the officials of the ILO, whose competence and devotion to duty make it possible for the Committee to accomplish its increasingly complex task in a limited period of time.

Geneva, 8 December 1995. *(Signed)* Sir William Douglas,
Chairman.

T. Yamaguchi,
Reporter.

PART TWO

Observations concerning particular countries

OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

I. Observations concerning annual reports on ratified Conventions
(article 22 of the Constitution)

A. General observations

Albania

The Committee notes with regret that, for the fifth year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all reports on the application of ratified Conventions, in accordance with article 22 of the Constitution of the ILO, if necessary requesting appropriate assistance from the Office.

Bosnia and Herzegovina

The Committee notes that the reports due have not been received. It hopes that appropriate measures will be taken to ensure the application of ratified Conventions as soon as circumstances permit.

Burundi

The Committee notes with regret that, for the third year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with article 22 of the Constitution of the ILO, if necessary requesting appropriate assistance from the Office.

Djibouti

The Committee notes that, for the second year in succession, most of the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all reports on the application of ratified Conventions, in accordance with article 22 of the Constitution of the ILO, if necessary requesting appropriate assistance from the Office.

Equatorial Guinea

The Committee notes with regret that, for the third year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with article 22 of the Constitution of the ILO, if necessary requesting appropriate assistance from the Office.

Ghana

The Committee notes that, for the second year in succession, most of the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all reports on the application of ratified Conventions, in accordance with article 22 of the Constitution of the ILO, if necessary requesting appropriate assistance from the Office.

Guinea

The Committee notes that the first report due since 1992 on Convention No. 133 has not been received. It trusts that the Government will in future discharge its obligation to supply the report due on the application of this Convention.

Haiti

The Committee notes with regret that, for the third year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with article 22 of the Constitution of the ILO, if necessary requesting appropriate assistance from the Office.

Latvia

The Committee notes that the first reports due since 1994 on Conventions Nos. 111, 122, 135 and 151 have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all reports due on the application of ratified Conventions.

Liberia

The Committee notes that for the second year in succession the reports due, including the first report due since 1992 on Convention No. 133, have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with article 22 of the Constitution of the ILO, if necessary requesting appropriate assistance from the Office.

Lithuania

The Committee notes with regret that, for the third year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with article 22 of the Constitution of the ILO, if necessary requesting appropriate assistance from the Office.

Luxembourg

The Committee notes that for the second year in succession most of the reports due, including the first reports due since 1993 on Conventions Nos. 53, 68, 69, 73, 74, 92, 108, 147 and 166, have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply the reports due on the application of ratified Conventions.

Nigeria

The Committee notes that the first report due since 1992 on Convention No. 133 has not been received. It trusts that the Government will in future discharge its obligation to supply the report due on the application of this Convention.

Papua New Guinea

The Committee notes with regret that, for the third year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with article 22 of the Constitution of the ILO, if necessary requesting appropriate assistance from the Office.

Saint Lucia

The Committee notes with regret that, for the fourth year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with article 22 of the Constitution of the ILO, if necessary requesting appropriate assistance from the Office.

Sao Tome and Principe

The Committee notes with regret that, for the fourth year in succession, the first reports due since 1994 on Conventions Nos. 87, 106 and 159 have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with article 22 of the Constitution of the ILO, if necessary requesting appropriate assistance from the Office.

Solomon Islands

The Committee notes with regret that, for the fourth year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with article 22 of the Constitution of the ILO, if necessary requesting appropriate assistance from the Office.

Somalia

The Committee notes that the reports due have not been received. The Committee hopes that appropriate measures will be taken to ensure the application of ratified Conventions as soon as circumstances permit.

Swaziland

The Committee notes that the first report due since 1994 on Convention No. 160 has not been received. It trusts that the Government will in future discharge its obligation to supply the report due on the application of this Convention.

Yemen

The Committee notes that, for the second year in succession, most of the reports due, including the first report due since 1993 on Convention No. 159, have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all reports on the application of ratified Conventions, in accordance with article

22 of the Constitution of the ILO, if necessary requesting appropriate assistance from the Office.

Yugoslavia

In the light of the decisions adopted by the competent bodies of the United Nations considering that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot automatically ensure the continuity of membership of the former Federal Socialist Republic of Yugoslavia, as well as the inferences drawn from this by the ILO Governing Body, the Committee considers it preferable, in order not to prejudge this question, not to proceed to examine the application of the Conventions ratified by the former Federal Socialist Republic of Yugoslavia.

Zaire

The Committee notes with regret that, for the third year in succession, the reports due have not been received. It trusts that the Government will not fail in sfuture to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with article 22 of the Constitutional of the ILO, if necessary requesting appropriate assistance from the Office.

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In addition, requests regarding certain points are being addressed directly to the following States: ***Angola, Antigua and Barbuda, Barbados, Bulgaria, Cameroon, Central African Republic, Congo, Dominica, Ethiopia, France, Gabon, Grenada, Guinea, Guinea-Bissau, Honduras, Iraq, Kuwait, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Mexico, Republic of Moldova, Pakistan, Paraguay, Senegal, Seychelles, Sierra Leone, Sri Lanka, United Republic of Tanzania, Uganda***.

B. Individual observations

Convention No. 1: Hours of Work (Industry), 1919

Argentina (ratification: 1933)

1. In a direct request that it made in 1994, the Committee noted a communication from the Congress of Argentinian Workers (CTA) alleging that a draft text of the labour legislation envisaged that daily working hours could be extended to up to ten hours, while under ***Article 2 of the Convention***, working hours shall not exceed eight in the day. The Committee requested the Government to make its own observations on this matter.

2. Furthermore, the Union of United Argentine Dockworkers (SUPA), in a communication dated 5 September 1995, refers to cases referred to the National Directorate of Occupational Safety and Health which, among other matters, raise the issue of working days that at times are longer than 12 continuous hours. In a letter dated 2 October 1995, the Office requested the Government to make its own comments which would be brought to the notice of the Committee.

3. The Committee trusts that the Government will refer, in its next detailed report on the application of the Convention, to the above issues and that it will provide the information required by the report form on the Convention, with an indication of the legislation respecting hours of work governing port activities and other sectors affected

by sections 17 and 18 of Decree No. 2364/91 of 31 October 1991 respecting economic deregulation.

Costa Rica (ratification: 1982)

I. The Committee notes the observations transmitted by the Government in June 1995 and the report received in October 1995 on the subject of the comments made by the Workers' Confederation "Rerum Novarum" on behalf of the Transport Workers Trade Union of Costa Rica (SICOTRA). The workers' organization referred to section 58 of the Political Constitution and sections 133-146 of the Labour Code and states that the above provisions do not give full effect to the provisions of the Convention. In the absence of regulations under section 146 of the Labour Code, working days of 12, 14, 16, 18 and even 20 hours could be required of workers. The Government recognizes that, according to the courts, since the regulations required by section 146 of the Labour Code have not been adopted, all hours worked in the road transport sector are payable at the same rate of remuneration, with the result that no special payment is made for overtime. The Government also states that the courts considered the issue once again and agreed that transport workers should be treated in conformity with the general legislation. The courts decided to apply to drivers sections 136 and 139 of the Labour Code, which lay down that eight hours is the normal working day and that hours in excess of this number give rise to wages that are 50 per cent higher. Furthermore, the Ministry of Labour and Social Security, after consultations with employers' and workers' bodies, submitted a Bill in March 1995 to the President of the Republic to establish an exemption to section 146 of the Labour Code. This text recognizes that the application of section 146 provided a basis for the labour courts to declare inapplicable over a long period the limits on maximum working hours set out in the Constitution and to come out against the payment of overtime rates in the transport sector. The draft text explicitly states that the proposed exemption would also comply with a series of comments made by the Committee in this respect. The Committee trusts that the Government will be in a position to include information in its next detailed report on the adoption of the Act to establish an exemption from section 146 of the Labour Code so that national law and practice are brought into conformity with the Convention as rapidly as possible.

II. The Committee considers it appropriate to recall its previous comments, which raised other questions relating to the application of the Convention.

1. *Article 2(b) of the Convention.* Section 136(2) of the Labour Code supplements the principle contained in the Constitution in the following manner: *Nevertheless, in work which is not inherently unhealthy or dangerous, a normal working day of up to ten hours and a mixed working day of up to eight hours may be determined, provided that weekly working hours do not exceed 48.* The Committee notes that under the terms of the above provision of the Convention, the additional hours authorized shall in no case be more than one hour a day. In its previous reports, the Government stated that it applied Article 5 of the Convention, which in exceptional cases and under determined conditions permits the daily limit of working hours to be exceeded. The Committee considers that the information supplied by the Government does not contain grounds enabling it to find that the requirements set out in Article 5 of the Convention have been met. The Committee requests the Government to take the necessary measures to give full effect to the limit of one hour a day set out in Article 2(b) of the Convention so that it does not continue to apply provisions and follow practices which are contrary to the provisions of the Convention.

2. *Article 6, paragraph 1.* In previous comments, the Committee referred to section 140 of the Labour Code, which provides that normal working hours, plus overtime hours, must not exceed 12 hours per day. The Committee recalls that the exceptions authorized to the above provision of the Convention must remain within reasonable limits and that permitting four hours overtime per day, without any other guarantee, such as a monthly or annual limit, does not appear to comply with the terms and, especially, with the spirit of the Convention. The Committee is therefore bound to hope that the next report will contain information on the proper application of the above provision.

Peru (ratification: 1945)

1. The Committee notes the Government's comments relating to the observation made by the Union of Workers of the Brewery "Backus and Johnston S.A.". According to the trade union, a shift system is applied in the enterprise under which, following seven weeks during which 56 hours a week have been worked, each worker is granted only one additional rest day to compensate for the extra days worked. The trade union referred the matter to the labour courts alleging violation of section 25 of the Political Constitution, of Convention No. 1 and of the collective agreements concluded between the parties. The court decision, which was transmitted to the Committee, recognizes that over the seven- week shift patterns worked by the teams covered by the collective agreement, 24 hours of rest were allowed for 48 hours of work, which does not appear to infringe the provisions of the legislation that is in force. The Government states to the Committee that the trade union's complaint is groundless and that the trade union, availing itself of the rights guaranteed under national legislation, appealed against the above-mentioned decision on the grounds of non-compliance with labour legislation and the Convention. The Committee would be grateful if the Government would supply the text of the ruling handed down by the higher court in the case brought by the Union of Workers of the Brewery "Backus and Johnston S.A." so that it is able to assess the manner in which effect has been given to the provisions of the Convention which, with the exception of the provisions of Article 4 relating to processes carried on continuously, do not authorize average working hours to exceed 48 in the week *(Article 2(c) and Article 5, paragraph 2, of the Convention)*. The Committee therefore also requests the Government to provide, in accordance with *Article 7* of the Convention, full information as to working of the agreements mentioned in *Article 5*, namely a list of the agreements with an indication of the industries and workers covered and, where possible, the text of the agreements. Please also indicate whether courts of law or other tribunals have issued decisions involving questions of principle relating to the application of the Convention.

2. The Committee notes the information on the activities of the labour inspectorate in 1993. It requests the Government to indicate in its next report, if the relevant statistics exist, the number of workers covered by the legislation, the number and nature of violations reported and the number of overtime hours worked in the cases referred to in Articles 3 and 6 of the Convention.

[The Government is asked to report in detail in 1996.]

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In addition, requests regarding certain points are being addressed directly to the following States: *Bulgaria, Djibouti, Libyan Arab Jamahiriya, Venezuela.*

Convention No. 2: Unemployment, 1919

Morocco (ratification: 1960)

Article 2, paragraph 1, of the Convention. In its former observation, the Committee noted the comments made in March 1991 by the Democratic Confederation of Labour and the General Union of Moroccan Workers alleging that the Higher Labour Council and the regional commissions provided for in the Royal Decree of 14 August 1967 did not exist and that the employment agencies played too limited a role on the labour market. It also noted the information supplied by the Government concerning the establishment of labour commissions in several areas in which there are employment agencies.

In its report, the Government states in reply to the Committee's comments that the Higher Labour Council has not met in recent years since several government meetings on employment have been held, but that a continuing social dialogue among all the social partners has led to the establishment of the National Council for Youth and the Future. The Government also indicates that the regional labour commissions are carrying out their activities under control of the competent regional authorities. The Committee notes the circular dated 12 December 1989 giving a new stimulus to the role of these commissions to promote employment. The Government also indicates that the Ministry of Labour, Traditional Industry and Social Affairs is presently carrying out a revision of the afore-mentioned Royal Decree with a view to extending the competence of the commissions and of participation of all concerned parties in their activities so that they fulfil the role of local bodies for vocational placement. The Committee would be grateful if the Government would provide information on the developments relating to these points in its next report. Please indicate particularly how the above-mentioned regional commissions work in practice and how they are consulted in relation to the system of public employment agencies.

Specifically in relation to the intervention of these public employment agencies on the labour market, the Committee notes that according to the statistical data supplied by the Government in its last report their activity still seems rather limited. The Government indicates that a large programme for restructuring the employment agencies and promoting their role is planned. The Committee would be grateful if the Government would continue to supply in its next report general indications on the working of the system of public employment agencies, as requested in the report form, as well as information on the follow-up given to the planned restructuring.

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In addition, requests regarding certain points are being addressed directly to the following States: *Estonia, Slovenia*.

Convention No. 4: Night Work (Women), 1919

A request regarding certain points is being addressed directly to the *Lao People's Democratic Republic*.

Convention No. 5: Minimum Age (Industry), 1919

Bolivia (ratification: 1954)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation on the following points:

> Regarding section 58 of the General Labour Act, which authorizes the employment of children under 14 years of age as apprentices, the Committee has been asking the Government to bring it into conformity with the Convention, which allows exceptions to the minimum age for admission to employment or work only for industrial undertakings in which only members of the same family are employed *(Article 2 of the Convention)* or for work done by children in technical schools, provided that such work is approved and supervised by public authority *(Article 3)*.
>
> The Committee noted the Government's earlier reference to the draft General Labour Act, prepared with ILO assistance, in which the provision concerning the minimum age for conclusion of the employment contract is set at 14 years, without exception for apprentices.
>
> Recalling that it has been commenting on this matter for many years, the Committee can only hope that the draft will soon be adopted as the new Act, and it asks the Government to supply information on all progress made.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Lesotho (ratification: 1966)

In its previous observation, the Committee referred to the discussion at the Conference Committee in 1994 and requested the Government to indicate measures taken or envisaged to ensure the effective enforcement in practice of the minimum age set forth by the Convention and the national legislation, including the efforts made by the labour inspectorate *(Article 2 of the Convention)*. It also requested information on measures for the practical enforcement of section 128 of the Labour Code Order No. 24 of 1992 concerning the registers of persons under 16 years of age *(Article 4)*.

The Committee notes the indication in the Government's report that the Ministry of Employment has various projects tailored for getting children out of industrial and commercial undertakings, through activities of some skills training centres. However, the Government further indicates that the majority of participants in the projects are children around the age of 18. The Committee would be grateful if the Government would provide information on any other such projects, in particular, focusing upon children under the age of 15 years.

As to the labour inspectorate, the Committee notes the indication in the report that industrial undertakings are each inspected at least once a month and that reports of such inspections handed to the office of the Labour Commissioner. The Government also states that since the Labour Code is still new in operation, just over a year, it is difficult to indicate problems so far encountered in its application.

The Committee would be grateful if the Government would continue to include in its reports information on the measures taken to ensure the effective enforcement in practice of the minimum age, including, for instance, extracts from official reports and information on any practical difficulties.

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In addition, requests regarding certain points are being addressed directly to the following States: *Central African Republic, Saint Lucia*.

Convention No. 6: Night Work of Young Persons (Industry), 1919

Burkina Faso (ratification: 1960)

The Committee has noted the information communicated by the Government in its report.

The Committee refers to its previous comments in which it stated that sections 3 and 7 of Order No. 539 of 29 July 1954 are not in conformity with *Article 2 of the Convention* (section 3 of the Order prohibits night work for young workers and apprentices, whereas the Convention applies to young manual and non-manual employees in industrial undertakings; section 7 permits exceptions to the prohibitions on night work which are broader than those set out in the Convention). It notes the Government's statement that the revision of Order No. 539 of 29 July 1954 is not yet effective because a re-reading of the new Labour Code is planned to take place two years after its adoption and application in the field. This re-reading will allow adaptation of the new law and all the texts applying it and the Committee's observation will be taken practically into account when the Order in question is revised.

The Committee requests the Government to indicate any progress achieved in this matter and to provide a copy of the revised text in question.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Chad, Lao People's Democratic Republic*.

Convention No. 8: Unemployment Indemnity (Shipwreck), 1920

Iraq (ratification: 1966)

1. The Committee has noted the information communicated by the Government, particularly in regard to *Article 1(1) of the Convention*.

2. *Articles 2 and 3 of the Convention*. For several years the Committee has drawn the Government's attention to the need to adopt legislation providing: (a) under *Article 2* of the Convention, that in the event of loss or foundering of a vessel, each person employed thereon shall be paid an indemnity against unemployment for the days during which they remain in fact unemployed at the same rate as the wages payable under the contract, but the total indemnity payable to any one seaman may be limited to two months' wages, and (b) under *Article 3* of the Convention, that seamen shall have the same remedies for recovering such indemnities as they have for recovering arrears of wages earned.

In its report, the Government indicates that article 150 of the Labour Code provides in a clear and explicit manner that in the absence of a provision in the Labour Code, the provisions of the Conventions of the International Labour Organization, in particular, ratified by Iraq shall be applied. It adds, none the less, that it will strive to take legislative measures to dispel any obscurity in this respect.

The Committee notes this information and hopes that the Government will be able, in accordance with the assurances given, to adopt the legal provisions needed to ensure full application of Articles 2 and 3 of the Convention. It hopes that the Government's next report will contain detailed information on progress made in this respect.

Jamaica (ratification: 1963)

Article 2 of the Convention. Further to its previous observation, the Committee notes the Government's statement that the final draft of the Jamaican Bill on Merchant Shipping is presently being reviewed by the competent authorities but has not yet been submitted to Parliament. The Committee once again hopes that the Government will take the necessary measures in the very near future to eliminate the bar to receipt of unemployment indemnity in case of shipwreck where it is proved that a seaman did not exert himself to the utmost to save the ship, in accordance with the provisions of the Convention.

Nicaragua (ratification: 1934)

Article 2 of the Convention. In previous comments the Committee has drawn the Government's attention to the fact that the existing provisions of the Labour Code (section 155 in relation with sections 116 and 117) were not sufficient to ensure that the unemployment indemnity due to seamen, irrespective of the type of contract, in every case of loss or foundering of any vessel, shall be paid for the days during which the seaman remains unemployed, for a minimum of two months. In its report, the Government states that Chapter III, concerning work on the sea and navigable waterways, has been adopted by the National Assembly, and that section 174 of said chapter ensures an indemnity in case of shipwreck. The Committee notes this information. It points out that section 174, as quoted in the Government's report, guarantees an indemnity in accordance with the law, and does not specify a minimum of two months' wages, as provided under Article 2 of the Convention. The Committee requests further information on what measures have been taken or are envisaged, such as further amendments to the Labour Code, to give full effect to the Convention on this point. It also asks the Government to indicate whether the new Chapter III of the Labour Code has come into force, and to provide the full text to the Committee as soon as possible.

[The Government is asked to report in detail in 1996.]

Sierra Leone (ratification: 1978)

Article 2 of the Convention. The Committee notes from the information supplied by the Government in its report that the legislation necessary to give effect to the Convention has not yet been adopted. In view of the scant progress made in this regard despite the comments it has been making for many years, the Committee stresses once again that legislative measures should be taken to amend the Merchant Shipping Legislation so as to eliminate the bar to receipt of unemployment indemnity in case of shipwreck where it is proved that a seaman did not exert himself to the utmost to save the ship. The Committee trusts that in its next report the Government will be able to state that the necessary legislation has been adopted to ensure that full effect is given to the Convention.

Tunisia (ratification: 1970)

Referring to its previous comments, the Committee notes with satisfaction the adoption of Act No. 95-59 of 3 July 1995 amending certain articles of the Maritime Labour Code. In particular, new section 64 of the Code extends protection in the event of shipwreck to seamen employed on all vessels, of any nature whatsoever, engaged in maritime navigation, whether obliged to have a crew register, whether publicly or privately owned, subject to certain exclusions relating particularly to ships of war, in accordance with *Article 1(2) of the Convention*. New section 64 also makes it possible to ensure payment of an unemployment indemnity in the event of shipwreck equal to at least two months' wages as provided in *Article 2(2) of the Convention*.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Costa Rica, Croatia, Fiji, Norway, Papua New Guinea, Poland, Solomon Islands*.

Convention No. 9: Placing of Seamen, 1920

Argentina (ratification: 1933)

1. The Committee notes the information provided by the Government in reply to its earlier comments. It also notes the new observations made in August and September 1995 by the Union of United Maritime Workers (SOMU), which supplemented the previous observations of the same organization received in March 1993 and December 1994, and the Government's reply to these observations. The SOMU reiterates its previous statements about the difficult employment situation of Argentine seafarers, in connection with the adoption of Decrees Nos. 1772/91, 817/92 and 1493/92. The Government indicates in its reply that the "emergency provisions" adopted in the course of the deregulation of the maritime transport and decentralization of its administration, which have become necessary in the context of economic transformations related to the process of regional integration, are aiming at the adaptation of a labour relations system to the new situation. The Committee notes statistical information concerning unemployment among seafarers supplied by the Government in its report. It would be grateful if the Government would continue to provide information, statistical or otherwise, concerning unemployment among seafarers and concerning the work of employment agencies for seafarers, as required by *Article 10, paragraph 1, of the Convention*.

2. *Article 4*. The Committee notes the report of the Coordination of Employment Services Department, appended to the Government's report, which contains information concerning the activities of various employment exchanges operated by trade union organizations authorized to run such employment exchanges by way of collective agreements. The Committee also notes that the majority of collective agreements containing such authorization were concluded in 1975. Further, according to the information appended to the Government's previous report received in January 1995, by virtue of Act No. 21476/76 enterprises were no longer bound to employ workers with a mediation of unions and respective provisions of collective agreements have been abrogated. Also, the Government indicated in its previous report that, in practice, seafarers are placed on board Argentine vessels directly, without intervention of employment exchanges. According to the Government's latest report, authorizations to operate employment exchanges not conducted with a view to profit have been granted to the SOMU (Resolution of the Minister of Labour No. 387/87) and to the Argentine Association of Masters and Chief Fishermen (Decision of the National Directorate of Employment No. 1/94).

As a result of noting the above information, the Committee recalls once again the provision of this Article, according to which a system of free public employment offices for seafarers may be organized and maintained either: (a) by representative associations of shipowners and seamen jointly under the control of a central authority; or (b) in the absence of such joint action, by the State itself. If the Government's present plans to not include the immediate establishment of a system of public employment offices for seafarers maintained by the State itself, as it appears from the Government's previous report, the Government might wish to consider implementing the Convention by arranging for the organization and maintenance of seafarers' employment offices by representative associations of shipowners and seafarers *jointly*, in accordance with *paragraph 1(a)* of this Article. The Committee expresses firm hope that appropriate measures will be taken by the Government, in the near future, to set up a system of public employment offices for seafarers, in order to give effect to this Article of the Convention and to channel the placement of seafarers through appropriately organized employment exchanges.

Article 5. The Committee notes with interest the Government's statement to the effect that, following appropriate consultation, the social partners are going to be convened, in the course of the last semester of 1995, with a view to constitute an advisory committee referred to in this Article. With reference to the comments it has been making on this subject over a number of years, the Committee hopes that such an advisory committee will be constituted in the near future to advise on matters concerning the carrying on of employment offices for seafarers, and that it will consist of an equal number of representatives of shipowners and seafarers, as required by this Article. It asks the Government to keep it informed on any progress made in this regard.

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In addition, requests regarding certain points are being addressed directly to the following States: *Bulgaria, Luxembourg*.

Convention No. 11: Right of Association (Agriculture), 1921

Malaysia (ratification: 1960)

The Committee notes the detailed information supplied by the Government in its reports in relation to the issue concerning the extent of rights of association and combination of agricultural workers who are self-employed and therefore outside the scope of the Trade Union Act, 1959, which applies to all workers employed under a contract of service in any undertaking, including an agricultural enterprise. The Committee notes that according to the Government, these self-employed workers are free to join associations and cooperative organizations to enhance their interests and welfare under the Societies Act, 1966, and the Cooperatives Act, 1948, respectively. To date, there are over 681 cooperatives and 117 associations to promote the welfare of farmers, fishermen and other self-employed workers. Moreover, it notes that farmers' associations have about 540,000 members.

Rwanda (ratification: 1962)

The Committee notes with regret that the Government's report contains no new information with regard to the repeal of section 186 of the Labour Code, which excludes agricultural workers from the scope of the Code. It is therefore bound to repeat the comments that it has been making in this respect since 1969 and requests the Government to take the necessary measures in the very near future to bring the national legislation into conformity with the Convention, particularly to ensure that agricultural workers are not discriminated against in relation to industrial workers as regards rights of association and combination. It also requests the Government to supply it with a copy of the Labour Code as soon as the amendments to it have been adopted.

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In addition, requests regarding certain points are being addressed directly to the following States: *Burundi, Gabon, Guatemala, Sri Lanka*.

Convention No. 13: White Lead (Painting), 1921

Algeria (ratification: 1962)

In comments it has been making since 1965, the Committee noted that there were no specific provisions giving effect to the Convention. The Government indicated previously that the text to give effect to the provisions of the Convention had already been prepared and submitted to the social partners for examination. The Committee notes the Government's indication in its last report to the effect that the regulations to give effect to the provisions of the Convention have still not been adopted.

The Committee hopes that the necessary measures will be taken in the near future to ensure the application of *Article 1 of the Convention* (prohibition of the use of white lead and sulphate of lead in the internal painting of buildings), *Article 2* (regulation of the use of white lead in artistic painting), *Article 3* (prohibition of the employment of males under 18 years of age and of all females in any painting work involving the use of white lead) and *Article 5* (regulation of the use of white lead in painting operations for which its use is not prohibited). In regard to the establishment of statistics on morbidity and mortality due to lead poisoning, the Committee notes the Government's indication to the effect that the National Social Insurance Scheme has been apprised of the question of statistics laid down in *Article 7* of the Convention with a view to the implementation of this Article.

The Committee requests the Government to indicate any progress made and to provide a copy of the relevant text as soon as it has been adopted.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Central African Republic, Guatemala*.

Convention No. 14: Weekly Rest (Industry), 1921

Argentina (ratification: 1936)

In its previous comments the Committee referred to the observations made by the United Maritime Workers' Union (SOMU) alleging that Decrees Nos. 1772/91, 817/92 and 1493/92 annulled almost all the collective agreements which had been in force in the maritime-related sectors. SOMU had indicated that certain provisions of Decree No. 817/92 which effectively abolished the right to collectively bargain conditions of work, including the right to weekly rest, had been declared unconstitutional. The Committee notes that SOMU has submitted further observations in August and September 1995. It also notes that the Government, in a communication of July 1995, has indicated that comments by SOMU were being examined and that a response would be given in the near future.

The Committee asks the Government to indicate how the application of the Convention is assured in the establishments covered by Article 1 of the Convention and in particular in the shipbuilding industry. The Committee also refers to its comments under Convention No. 98.

Bolivia (ratification: 1954)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In earlier comments, the Committee noted that under section 31 of Decree No. 244 of 1943 (a regulation issued under the General Labour Law), an employer may grant to a worker, in the event of work on the weekly rest day, either compensatory rest or compensatory remuneration. In a report received in February 1991, the Government indicated that the General Labour Law was in the process of revision with the technical assistance of the ILO. In its report for 1994 on the application of several Conventions, including Convention No. 14, the Government indicates there have been no legislative changes.
>
> The Committee must recall that *Article 5 of the Convention*, provides for, as far as possible, compensatory periods of rest in cases where exceptions have been made regarding the right to weekly rest. In this regard, the Committee once again points out that section 31 of Decree No. 244 allows more latitude to the employer than is envisaged under the Convention. It hopes that the new legislation will be adopted as soon as possible, with a provision to ensure that workers employed on a weekly rest day are granted a compensatory rest. It requests the Government to indicate the progress achieved in this respect and to supply a copy of the relevant text when it is adopted.
>
> The Committee also requests the Government to refer to the comments that it has made under Convention No. 106.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Bahamas, Bulgaria, Burkina Faso, Costa Rica, France, Haiti, Lebanon, Lesotho, Solomon Islands, Spain.*

Convention No. 16: Medical Examination of Young Persons (Sea), 1921

Requests regarding certain points are being addressed directly to the following States: *Dominica, Spain.*

Information supplied by *Costa Rica* in answer to a direct request has been noted by the Committee.

Convention No. 17: Workmen's Compensation (Accidents), 1925

Colombia (ratification: 1933)

The Committee notes the adoption of Act No. 100 of 23 December 1993 establishing an overall social security system, as well as Decree No. 1295 of 22 June 1994, governing the organization and administration of the general system for employment injury. Under the new system, all employers have to affiliate under the general system for employment injury (section 4(c) of the Decree), which covers all the public and private bodies, standards and procedures designed to prevent, protect and assist workers with regard to the effects of diseases and injuries which may arise during or as a consequence of their work (section 1). The choice of bodies which administer the general system for employment injury is free and voluntary for the employer (section 4(f)). However, such bodies can only be established by the Social Insurance Institute and by life insurance companies which obtain authorization from the Banking Supervisory Authority to operate in the employment injury insurance branch (section 77 of the Decree). Employers which are registered with the Social Insurance Institute when the Decree comes into force may transfer their affiliation to any other body administering the employment injury branch, provided it is duly authorized (section 78 of the Decree). The new general system for employment injury came into force for private sector employers and workers as of 1 August 1994; it will be applicable to the public sector at the latest by 1 January 1996 (section 97 of the Decree). From the date of publication of the Decree, certain sections of the Labour Code respecting compensation for employment injury, as well as certain provisions of Decree No. 3135 of 1968 and Decree No. 1848 of 1969, respecting public officials and employees, concerning which the Committee had commented previously, are repealed.

The Committee would be grateful if the Government's next report contained detailed information on the implementation in law and practice of the new general system for employment injury established by Decree No. 1295 of 1994 under *each of the Articles of the Convention*. Furthermore, it would be grateful in particular to be provided with information on the following points.

Article 2, paragraph 1, of the Convention. 1. The Committee requests the Government to provide statistics on the number of workers registered with the general system for employment injury by their employer, under the terms of section 4(c) of Decree No. 1295, and their proportion in relation to the total number of employees, in both the private and public sectors.

2. The Committee also notes that by virtue of section 4(e) of the above Decree, employers which do not register their workers under the general system for employment injury shall be responsible for the benefits laid down in the above Decree, in addition to any sanctions applicable under the law. The Committee would be grateful if the Government would provide detailed information on the effect given to this provision. It also requests the Government to indicate the measures taken to ensure that in practice employers register their workers under the new general system for employment injury.

Article 5. The Committee notes that, under the terms of section 42 of Decree No. 1295, any person covered by the general system for employment injury who suffers a definitive decrease in his or her capacity for work is entitled, when the loss of capacity is less than 50 per cent, but at least 5 per cent, to compensation payable as a lump sum. The Committee recalls that, in accordance with Article 5 of the Convention, compensation may be paid as a lump sum if the competent authority is satisfied that it will be properly utilized. It would be grateful if the Government would indicate the measures which have been taken or are envisaged to ensure that full effect is given to this provision of the Convention.

Article 8. The Committee would be grateful if the Government would provide detailed information on the manner in which the new general system for employment injury is supervised in practice. Furthermore, the Committee would be grateful if the Government would also indicate the legal channels of redress available to workers in the event that their benefits are refused or that disputes arise concerning their amount.

Articles 9 and 10. The Committee requests the Government to indicate in its next report whether a maximum amount or time-limit is established for the cost of medical, surgical and pharmaceutical aid, as well as for the supply and renewal of artificial limbs and surgical appliances (section 5 of Decree No. 1295).

Article 11. 1. The Committee hopes that the Government's next report will contain detailed information on the measures taken to ensure in all circumstances, and in accordance with this provision of the Convention, the payment of compensation to the victims of employment injuries and their dependants, and particularly to guarantee payment in the event of the insolvency of the employer in cases where the latter remains responsible for the payment of benefits under the terms of section 4(e) of Decree No. 1295 due to failure to register workers under the general system for employment injury.

2. The Committee notes that under the terms of section 79 of Decree No. 1295, life insurance companies which wish to obtain authorization from the Banking Supervisory Authority to operate in the employment injury insurance branch have to possess their own assets to a level not lower than an amount determined regularly by the Government (500 million pesos in 1994). Futhermore, under the terms of section 83 of the above Decree, without prejudice to the fulfilment by reinsurance companies of their obligations, the State guarantees, through the Guarantee Fund for Financial Institutions (FOGAFIN), the payment of pensions in the event of the loss of the assets or the suspension of payments by the body administering the general system for employment injury, in accordance with regulations issued for that purpose. The Committee requests the Government to provide further information on the implementation in practice of this guarantee and to provide the text of the regulations mentioned in section 83. The Committee would also be grateful if the Government would indicate the manner in which the provision of medical care is guaranteed in the event of the insolvency of the insurer.

Saint Lucia (ratification: 1980)

The Committee notes with regret that for the third consecutive year the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 7 of the Convention.* The Committee notes that Regulations No. 37 of 1984 do not, as set out in this provision of the Convention, provide for the provision of additional compensation to victims of accidents who suffer incapacity and require the constant help of another person. The Committee therefore hopes that the Government will take the necessary steps to give effect to this provision of the Convention.
>
> *Articles 9 and 10.* In its previous comments, the Committee drew the Government's attention to the fact that, contrary to this provision of the Convention, section 52(1) of the National Insurance Act No. 10 of 1978 limits to a prescribed amount the right to medical assistance and the provision of artificial limbs. In view of the fact that the Regulations issued under the Act do not appear to contain provisions in this connection, the Committee hopes that the Government will take the necessary steps to secure the application of these Articles of the Convention, which do not fix any maximum amount as regards such benefits.
>
> The Committee also requests the Government to indicate whether the medical treatment set out under section 52(1) of Act No. 10 of 1978 also covers pharmaceutical assistance and the supply, repair and renewal of artificial limbs, in accordance with these provisions of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Sao Tome and Principe (ratification: 1982)

The Committee notes with regret for the third consecutive time that the Government's report has not been received. The Committee must return to the question in a new direct request. It hopes that the Government will, without fail, take the necessary steps and supply the information requested.

Sierra Leone (ratification: 1961)

Article 5 of the Convention. For many years the Committee has been drawing the Government's attention to the fact that sections 6, 7 and 8 of the Workmen's Compensation Ordinance 1954, as amended in 1969, provide for periodic payments for injury benefit, which, although equivalent to the full amount of wages received prior to the accident, are paid only for a limited number of months, whereas under *Article 5 of the Convention*, payment shall be made throughout the contingency.

The Government states in its report that the final draft of the New Labour Legislation, which will provide for periodic payment of benefit in cases of work injury throughout the period of disability, is expected to be completed shortly. The Committee notes this information. It hopes that the process of enactment will be completed soon, and that the Government will supply a copy of the legislation once it is enacted.

Uganda (ratification: 1963)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 5 of the Convention.* Referring to its previous comments which it has been making since 1966, the Committee notes from the Government's report that the draft workers' compensation legislation, prepared with the assistance of the ILO in 1990, has not yet been adopted. It notes however from the Government's report that the draft legislation, which is at present under examination, takes account of the provisions of Article 5 of the Convention. In this situation, the Committee once again expresses the hope that this legislation will be adopted in the very near future so as to give full effect to the Convention, and in particular to its Article 5, under which compensation payable in case of death or permanent incapacity shall be paid in the form of periodical payments throughout the contingency, provided that it may be paid in a lump sum, if the competent authority is satisfied that it will be properly utilized. The Committee asks the Government to indicate any progress made in this respect in its next report.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

United Kingdom (ratification: 1949)

The Committee notes the information and statistics supplied by the Government in its report.

1. *Article 9 of the Convention.* In reply to the previous comments of the Committee, the Government states that, in light of the numerous exemptions from payment which already exist, the current prescription charge is a reasonable contribution from those who can afford to pay, and it would not be fair to extend automatic exemption from prescription charges to all victims of industrial accidents. Furthermore, extending exemption from prescription charges to items solely for the treatment of conditions arising as a result of an industrial accident would involve doctors in deciding whether or not a particular ailment was a consequence of the accident. The Committee notes this information. It recalls that the purpose of requiring the provision of

prescriptions free of charge to the injured worker is to avoid placing the financial consequences of the injury on the individual worker. Therefore, in light of the existing exemptions from payment of prescription charges for other classes of beneficiaries regardless of ability to pay (such as persons above or below a prescribed age, pregnant women, and war or Ministry of Defence disablement pensioners), the Committee trusts that the Government will have no difficulty ensuring in the near future that pharmaceutical aid dispensed outside hospital, in particular, is provided free of charge to all victims of industrial accidents.

2. The Committee notes the Government's reply to the comments submitted by the Trades Union Congress concerning changes in the Industrial Injuries Scheme. The Committee also notes the adoption of the Social Security (Incapacity for Work) Act of 5 July 1994, mentioned by the Government in its report, and requests further information on the effect of this Act on the application of *Articles 5,6, and 7 of the Convention*.

United Republic of Tanzania (ratification: 1962)

1. *Article 5 of the Convention*. In previous observations, the Committee had noted that Chapter 263 of the Workmen's Compensation Ordinance made provision for payment in the form of a lump sum in the event of death or permanent incapacity, whereas *Article 5* requires that compensation be paid in the form of periodic payment. Under this Article of the Convention, lump sums may be paid only with adequate supervision from the appropriate authorities. In reply to these observations, the Government had expressed its intent, since 1988, to adopt "Consolidated Social Security Legislation". In its last report, the Government explains that the matter is still being followed up by the National Provident Fund and experts from the International Social Security Association, in collaboration with the International Labour Office.

The Committee notes this information. It again urges the Government to take all necessary measures to give full effect to the requirements of the Convention in the very near future.

2. The Committee requests information on the application of the Convention, including any relevant statistics, in accordance with *point V of the report form*.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bulgaria, Central African Republic, Guinea-Bissau, Sao Tome and Principe, United Republic of Tanzania*.

Information supplied by *Egypt* in answer to a direct request has been noted by the Committee.

Convention No. 18: Workmen's Compensation (Occupational Diseases), 1925

Guinea-Bissau (ratification: 1977)

The Committee notes that the Government's report does not indicate any progress in the adoption of a list of occupational diseases. The Committee cannot emphasize enough the importance of adopting a list which includes at least those diseases specified in the Schedule to *Article 2 of the Convention*. It is bound once again to insist that the

Government take the necessary steps in the very near future to give full effect to the provisions of the Convention.

Sao Tome and Principe (ratification: 1982)

The Committee notes with regret that, for the third consecutive time, the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> With reference to its previous comments, the Committee notes the new Social Security Act, No. 1/90, of 31 January 1990. It notes that, like the former legislation, the new Act does not contain a list of occupational diseases as set out in *Article 2 of the Convention*. The Committee notes, however, that pursuant to section 87(2) of the Act, diagnosis of occupational diseases is carried out by medical services on the basis of specifically defined technical standards. Furthermore, section 146(1) of Act No. 6/92 of 20 March 1992 issuing the rules on individual conditions of work requires employers to report occupational diseases and keep a record of them.
>
> The Committee would be grateful if the Government would provide detailed information on the manner in which diagnosis of occupational diseases is carried out in practice for purposes of compensation and to provide a copy of the technical standards adopted under section 87(2) of Act No. 1/90. It trusts that the Government will not fail to take the necessary measures, in the context of the above technical standards or any other implementing regulations, to adopt in the very near future a list of occupational diseases which includes at least those contained in the Schedule to Article 2 of the Convention, setting out the diseases which are to be recognized as such in the event that they are contracted in the circumstances set out in the Schedule. In this connection, it suggests that the Government might wish to seek technical assistance from the ILO.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Mozambique, Pakistan*.

Convention No. 19: Equality of Treatment (Accident Compensation), 1925

Central African Republic (ratification: 1964)

Article 1, paragraph 2, of the Convention. Further to its previous comments, which it has been raising for a number of years, the Committee notes from the Government's reports under this Convention and Convention No. 118, that the necessary amendments to bring the national legislation into conformity with the Convention are expected to be adopted soon. The Committee recalls the need to amend the legislation so that the dependants (survivors) of a worker, who was a national of a State bound by the Convention, who were not resident in the Central African Republic at the time of the victim's death and continue not to be so resident, may claim the survivors' benefit established in the legislation on employment injury compensation, in accordance with the Convention. It again expresses the hope that the Government will not fail to indicate progress on this matter in its next report.

Malaysia

Peninsular Malaysia (ratification: 1957)

Sarawak (ratification: 1964)

Article 1, paragraph 1, of the Convention. The Committee notes the information contained in the Government's report, particularly the information which the Committee had requested concerning accident compensation coverage for foreign workers which was transferred from the Employees' Social Security Scheme (governed by the Employees' Social Security Act, 1969) to the Workmen's Compensation Scheme (governed by the Workmen's Compensation Act, 1952), as of 1 April 1993. The Government explains that this transfer was due to administrative considerations, especially control and monitoring of long-term benefit payments. According to the Government's report other workers covered under the Workmen's Compensation Scheme include those in the public sector and workers in the private sector in establishments employing less than five workers before July 1992.

The Committee notes from a review of the two schemes that the level of benefits in case of industrial accident provided under the Employees' Social Security Scheme is substantially higher than that provided under the Workmen's Compensation Scheme. For example, under the Employee's Social Security Scheme a permanently injured worker is entitled to a periodical cash benefit of 90 per cent of his "assumed average daily wage" (section 22b in conjunction with the fourth schedule of the Employees' Social Security Act) whereas under the Workmen's Compensation Act (section 8) the permanently injured worker is entitled to a lump-sum payment of only 62 months salary or 19,200 ringgits, whichever is less.

The Committee recalls that Article 1(1) of the Convention requires that a ratifying State should provide to foreign workers who are nationals of any other State which has ratified this instrument, and to their dependants, the same treatment in respect of workmen's compensation as it grants to its own nationals. Thus the general transfer of foreign workers working in the private sector from the Employees' Social Security Scheme to the Workmen's Compensation Scheme is not in conformity with this provision. The Committee hopes that the Government will take the necessary steps in the near future to place foreign workers back under the Employee's Social Security Scheme under the same conditions as nationals, thereby providing equal treatment under the law as far as compensation for industrial accident is concerned.

[The Government is asked to report in detail in 1996.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Guinea-Bissau, Saint Lucia, South Africa.*

Convention No. 20: Night Work (Bakeries), 1925

Chile (ratification: 1933)

The Committee notes that the Government's report does not contain information on the adoption of the relevant measures to ensure, by the most appropriate means, that effect is given to the prohibition set out in *Article 1 of the Convention.* With respect to the observation made in 1994, the Government recalls that it has ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). The Government states that it has established a tripartite commission to examine the compatibility of national legislation with a series of ILO Conventions. It states that, in accordance with *Article 5, paragraph 1(d) and (e)* of Convention No. 144, it will submit to the above tripartite commission the situation arising with regard to the obligations deriving from Convention No. 20. The Government adds that it will keep the Committee duly informed of the consultations that are held, the points of view expressed and the agreements reached.

At its present session, the Committee has examined the Government's first report on the application of Convention No. 144 and has transmitted a direct request in this respect; it trusts that it will be provided with firm information on the possibility of holding consultations within the framework of the tripartite commission established under the terms of Convention No. 144 with regard to the denunciation of Convention No. 20, to which the Government had referred in previous reports on the application of the latter Convention.

The Committee recalls that the application of Convention No. 20 has given rise to comments by the occupational organizations concerned and would recall that while a ratified Convention remains in force, the Government has to give effect to all of its provisions. The Committee trusts that this will be taken into account so that all the measures necessary to bring national law and practice into conformity with the Convention will be taken in the near future, or so that the situation is clarified as regards the obligations deriving from its ratification.

[The Government is asked to report in detail in 1996.]

* * *

In addition, a request regarding certain points is being addressed directly to *Peru*.

Convention No. 22: Seamen's Articles of Agreement, 1926

Argentina (ratification: 1950)

The Committee notes the information in the Government's report and, in particular, that the communications of the Union of United Maritime Workers (SOMU) dated 29 April 1994, 2 December 1994 and 5 January 1995 are presently under consideration at the Directorate of Institutions which will reply to the Committee as soon as it has received the information on the matter which has been requested from the representatives of the maritime sectors and professions concerned, and the official bodies involved in the matters in question. The Committee would be grateful if the Government would also take into consideration in its replies in regard to matters pertinent to this Convention the SOMU's more recent communications of 11 and 14 August and 14 September 1995.

The Committee also notes the information supplied about the decision of the Supreme National Court of Justice dated 2 December 1993. It will consider this information inasmuch as it is pertinent to the application of the Convention, when it examines the replies communicated by the Government.

The Committee has also noted the information about the draft law of a Second Register which is designed to meet the transitory situation mentioned pending the establishment of a special Argentine Register of shipping within the National Register of Shipping which can include vessels intended for the transport of cargo and passengers, irrespective of the national or international nature of the traffic involved, and charter of bare-boat charters or maritime vessels flying foreign flags. Furthermore, in accordance with section 11 of the above-mentioned draft law, the employment relationship between the shipping company and the crew member of a vessel or naval appliance listed in the special register will be governed exclusively by the contract of employment and the collective agreements concluded, to the exclusion of any other pre-existing provisions of law or collective agreements; the minimum requirement is compliance with the provisions of the law, the ILO Conventions ratified by Argentina and the usage and custom and minimum standards adopted at the international level. In addition, article 14 of this Bill requires an adequate knowledge of the Spanish language and of navigation safety standards.

The Committee hopes that the Bill which will be adopted finally will ensure that no seagoing vessel listed in the Second Register to which the Convention applies *(Article 1 of the Convention)* will be excluded from the scope of the legislation which gives effect to this international standard.

The Committee has also noted that according to the Government's report, at the fifth meeting of the Tripartite Consultation Commission to Promote the Application of International Labour Standards it was agreed to convene a new meeting to which the Argentine Chamber of Shipping would be invited and which would include consideration of the observations of the Committee on the Application of the Convention. The Committee hopes that, at this forum, it will be possible to discuss the questions previously raised by the SOMU relating to the recruitment of foreign seamen who, because of their lack of knowledge of Spanish, cannot, under article 1 of Ordinance No. 7 of the National Labour Prefecture dated 17 June 1993, be employed on board and constitute part of the minimum crew for safety on a national merchant vessel *(Article 3, paragraph 4)* and those who are paid unofficially or outside the legal terms *(Articles 3, paragraphs 5 and 6, paragraph 3(9))*. It hopes the parties present at this forum will find the best means of ensuring the application of these provisions of the Convention.

[The Government is requested to send a detailed report in 1996.]

Liberia (ratification: 1977)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the information contained in the Government's report, which refers to Liberian Maritime Law and the corresponding regulations, as amended up to 1992.
>
> *Article 3, paragraph 4, of the Convention.* The Committee notes that under Regulation 10.320(1) a foreign language version of the articles of agreement may be appended to the English version. The Committee points out that the above-mentioned regulation goes in the direction of meeting the requirement of this provision of the Convention. However, in order to ensure full compliance with the Convention in the case of a seafarer who does not understand English, it is necessary to have the contract written in a language he understands and that, if need be, the representative of the competent authority or the master, in the presence of witnesses, should explain the contents of the contract. The Committee asks the Government to indicate the measures taken or under consideration to ensure that full effect is given to this provision of the Convention.
>
> *Article 9, paragraph 2.* The Committee notes that, under section 323(4) of Liberian Maritime Law, where articles of agreement are not for a stated period they expire at the end of one year, provided that at least five days' prior notice has been given. It draws the Government's attention to the fact that national law must prescribe the manner of giving notice, so as to preclude any subsequent dispute between the parties. Please provide all useful information on this matter.
>
> *Articles 13 and 14, paragraph 2.* Please indicate the measures taken or contemplated to ensure the application of these provisions of the Convention.

Point V of the report form. Please give a general appreciation of the manner in which the Convention is applied.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Mauritania (ratification: 1963)

The Committee notes the information supplied in the Government's report according to which the new Merchant Navy Code enacted in Act No. 95009 of 31 January 1995 has taken into account the comments it has been making for several years. On this score, the Government mentions in its report the provisions of sections 302 and 310 of this new Code. The Committee requests the Government to supply the text of the Code so that it can ascertain to what extent effective application is ensured of *Article 9, paragraph 1, and Articles 12 and 14, paragraph 2, of the Convention.*

[The Government is requested to submit a detailed report in 1996.]

Panama (ratification: 1970)

The Committee notes the Government's reports indicating that the draft text of the Labour Act respecting navigable seaways and waterways has not yet been adopted. It trusts that the Government will take into consideration the comments it has been making for several years and that the text will be adopted as soon as possible and thus ensure the application of *Articles 3, paragraph 4* (understanding of the terms of the contract) and 9, *paragraph 1* (termination of an agreement for an indefinite period by either party in any port where the vessel loads or unloads) *of the Convention.* To this end, it hopes that section 257 of the Labour Code, which provides that the parties cannot terminate an employment agreement, even for just cause, while the ship is in voyage, that is when it is at sea or in any national or foreign port which is not the port of boarding or the port of engagement in Panama, will be repealed.

[The Government is invited to submit a detailed report in 1996.]

Peru (ratification: 1962)

The Committee notes the information supplied by the Government in its report, as well as the samples of the seafarers' discharge book. With reference to its previous comments, the Committee hopes the Government will take the necessary measures with a view to ensuring that articles of agreement include a reference to the 30 calendar days of annual leave with pay which seafarers are entitled to by virtue of section 10 of Legislative Decree No. 713 of 1991 *(Article 6, paragraph 3(11), of the Convention).*

Article 9, paragraphs 1 and 2. Further to its previous comments, the Committee would be grateful if the Government would supply a copy of each of the versions currently in force of the Regulations on Ports and Activities at Sea and on Inland Waterways (Presidential Decree No. 002-87-MA of 9 April 1987), as well as of Presidential Decree No. 0002-RE which was indicated as having been attached to the Government's report but not received at the ILO.

Tunisia (ratification: 1970)

Further to its previous comments, the Committee notes with satisfaction that Act No. 95-59 of 3 July 1995 amending certain sections of the Maritime Labour Code has introduced a new version of section 33 of the Code providing in particular the possibility for parties to an agreement for an indefinite period to terminate the agreement in any port where the vessel loads or unloads, thus bringing the national legislation into conformity with *Article 9, paragraph 1, of the Convention*.

The Committee raises another point in a direct request to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bahamas, Brazil, Bulgaria, Ghana, Tunisia*.

Convention No. 23: Repatriation of Seamen, 1926

Ireland (ratification: 1930)

Article 3, paragraphs 1 and 4 of the Convention. In its previous observation the Committee noted with regret that the Government's reply to comments it has been making since 1964 essentially repeated what had been noted by the Committee for the last 30 years. While it understood the complexity of making a comprehensive revision of Acts as old and as important as the Merchant Shipping Act, 1894, and the Merchant Shipping Act, 1906, as well as the priority of the safety aspects of such a revision, the Committee expressed the hope that the Government would consider enacting separately, without waiting for the complete review and revision of the Acts, the draft provisions intended to ensure the right to repatriation of: (a) a seafarer who leaves the ship in a Commonwealth country; or (b) a foreign seafarer who joins the ship in one foreign port and leaves it in another.

The Committee notes the Government's indication in its latest report that, as part of the ongoing review of maritime legislation, a Bill is being prepared amending the Mercantile Marine Act, 1955, and that provision will be made in this Bill to amend the Merchant Shipping Act, 1906, which deals with repatriation. The Committee notes with interest the Government's statement that the Department of Marine expects the Bill to be enacted by the end of 1995.

The Committee expresses the firm hope that the Government will soon provide the information on the adoption of measures necessary to resolve this long-standing problem of the conformity of its legislation with the requirements of the Convention.

[The Government is asked to report in detail in 1996.]

Tunisia (ratification: 1970)

Further to its previous comments, the Committee notes with satisfaction that Act No. 95-59 of 3 July 1995, to amend certain sections of the Maritime Labour Code, has established a new version of section 110 of the said Code which provides that the expenses of repatriation shall include all charges arising out of transportation, accommodation and food, as well as the maintenance expenses of the seafarer up to the time fixed for his departure, thereby bringing the Maritime Labour Code into conformity with *Article 5, paragraph 1, of the Convention*.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: ***Bulgaria, Kyrgyzstan, Tajikistan, Ukraine***.

Convention No. 24: Sickness Insurance (Industry), 1927

Chile (ratification: 1931)

In its previous comments, the Committee indicated that to give effect to *Article 7, paragraph 1, of the Convention*, measures would have to be adopted to ensure that employers contributed directly to the establishment of the Sickness Insurance Fund for their employees. In its report for the period ending 30 June 1994, the Government refers again to certain legislative texts in force, particularly Legislative Decree No. 3501 of 1980, which establishes a new structure for payments providing an increase of cash remuneration for employees so that the employer's contribution to financing the insurance system is included in the increased salary. The Committee has already noted that the nature of this salary increase does not comply strictly with the requirement that the employers must contribute, in accordance with the provision of the Convention, in establishing the Sickness Insurance Fund. In these circumstances, the Committee can only request the Government again to adopt measures to ensure full application of this provision of the Convention.

Colombia (ratification: 1933)

The Committee notes the information supplied by the Government in its report. It also notes the adoption of Act No. 100 of 23 December 1993 establishing an integrated social security system, of Decree No. 1298 of 22 June 1994 enacting the organic status of the general social security system on health as well as various other texts under Act No. 100. The Committee requests the Government to supply in its next report further information on the entry into force of this legislation in regard to sickness insurance and its implementation in practice. It would like, in particular, the Government to provide detailed information for each of the Articles of the Convention in regard to medical care and sickness benefits.

With respect more particularly to *Article 2 of the Convention*, the Committee hopes that the Government's next report will contain detailed information on the geographical extension of the integrated social security scheme in order to ensure that all workers covered by the Convention benefit from sickness insurance.

[The Government is requested to report in detail in 1997.]

Djibouti (ratification: 1978)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read follows:

> The Committee notes from the Government's report that there have been no changes in the application of the Convention. It recalls that for many years it has been requesting the Government to take steps to amend the legislation so as to provide for sickness insurance. It again expresses its hope that, with the technical assistance of the International Labour Office, the Government will endeavour to establish a sickness insurance scheme in accordance with the provisions of the Convention.

The Government hopes that the Government will make every effort to take the necessary action in the very near future.

Haiti (ratification: 1955)

With reference to its previous comments, the Committee notes with regret that for the second consecutive time, the Government's report has not been received. It therefore hopes that a report will be supplied for examination at its next session and that it will contain information on the measures taken or contemplated, with the assistance of the ILO, if need be, to progressively set up a system of general sickness insurance, in accordance with the Convention.

Peru (ratification: 1945)

The Committee notes the Government's statement in its report that the regulations for implementing Decree No. 718 of 8 November 1991 are still under development. It hopes that when these regulations are adopted they will not fail to take into account the points raised by the Committee in its observation formulated in March 1995.

[The Government is requested to report in detail in 1997.]

Spain (ratification: 1932)

With reference to its previous observation, the Committee notes the comments on the application of the Convention communicated by the General Union of Workers (UGT) in September 1994, as well as the Government's reply to them, received together with its report in January 1995. Moreover, it notes the UGT's comments and the Government's reply concerning Convention No. 102, in as much as they also raise issues relating to the application of Convention No. 24.

1. In its observations, the UGT refers to the reform introduced by Royal Legislative Decree No. 5 of 21 July 1992, pertaining to urgent budgetary measures concerning cash benefits in case of temporary incapacity due to sickness or accidents not related to work. According to the UGT, this reform, which requires employers to pay cash benefit for the first 15 days of incapacity, has created important problems and would be contrary to *Article 6* of Convention No. 24, which provides that sickness insurance is to be under the administrative and financial control of the public authorities.

The Committee notes this information as well as the Government's reply. It considers that the modifications created by Royal Legislative Decree No. 5/1992 should be considered as within the framework of *Article 3, paragraph 3(a), of the Convention*. Under the terms of this provision, the sickness indemnity may be suspended when the insured receives from elsewhere for the same sickness, another benefit to which he is entitled by law and which is equivalent to the indemnity provided under *Article 3, paragraph 1*. Of course, in this case, the Government should take the necessary measures to ensure in practice that employers pay the sickness indemnities in a manner which eliminates all risk of abuse. The Committee refers in this regard to its comments under Convention No. 102.

2. Concerning the observations of the UGT relating to temporary invalidity and permanent incapacity to work, the Committee also refers to its observation concerning Convention No. 102.

3. On the other hand, in its observations concerning the application of Convention No. 102, the UGT adds that the Government recently has established a new apprenticeship contract, for young workers between 16 and 25 years of age, which sets remuneration at a percentage of the guaranteed minimum wage. According to the UGT,

section 3, paragraph 2(g) of Law No. 10 of 19 May 1994 concerning emergency measures to create employment deprives apprentices of the right to sickness benefit, which is not in conformity with international standards.

In its report, the Government indicates that the apprenticeship contract is a special contract, which is aimed at facilitating the entry into the workforce of young workers who lack specific training or work experience by balancing theoretical education with necessary practice. The regulation of apprenticeship contracts establishes minimum conditions, such as the duration of the contract, the length of theoretical education, the compensation due, all of which can be established by collective agreement negotiated by the unions.

The Committee takes note of this information. It notes that, in accordance with section 3, paragraph 2(g) of Law No. 10/1994, "the social protection of the apprentice includes only the contingencies of work accidents and occupational diseases, medical care for sickness or injury which is not of occupational origin, cash benefit for maternity leave, pensions, and funds to guarantee wages". The Committee recalls in this respect that *Article 2, paragraph 1*, of Convention No. 24 expressly includes apprentices in its scope for sickness insurance in commercial and industrial enterprises, except those exceptions specified in paragraph 2. Therefore, the Committee requests the Government to re-examine this question and to indicate in its next report the measures taken or envisaged to give full effect to this provision of the Convention concerning cash sickness benefit.

[The Government is asked to report in detail in 1996.]

United Kingdom (ratification: 1931)

1. The Committee notes the information provided by the Government in its reports. It also notes the observations made by the Trades Union Congress (TUC) on the Statutory Sick Pay Act 1994, which were transmitted by the Government, as well as the Government's reply to these observations.

The TUC recalls that the Act of 10 February 1994 abolishes the right of employers in large enterprises to recoup the amounts paid to workers in respect of statutory sick pay. Indeed, since 1982, the payment and administration of this benefit has been entrusted (for a period currently set at 28 weeks) to employers who, up to 1992 were entitled to recoup the whole of the payment and, since then, 80 per cent of the amounts paid, from their National Insurance Contributions. The above Act of 1994 maintained this right for smaller employers, while the contributions of larger employers were cut by 0.2 per cent.

The Trades Union Congress states in this respect that the policy adopted by the Government has had adverse effects, such as the dismissal by employers of workers who become sick to avoid paying the sickness pay set out in the law. Furthermore, the administration of this scheme by employers is reported to be less efficient than that by the public authorities, according to a report of the National Audit Office, which found that one-quarter of payments made by employers were incorrect. The Trades Union Congress also considers that the full transfer of responsibility to employers for the payment of sickness benefits will encourage them to discriminate in recruitment against certain categories of workers who may wrongly be considered to be more likely to take sickness leave, such as older workers, women and workers with disabilities.

In its reply, the Government emphasizes that the measures to make employers entirely responsible for sickness pay were adopted to encourage them to tackle the problem of absenteeism due to sickness, the rate of which in British industry was one of the highest in Europe. However, these measures were accompanied by a compensating reduction in the level of their National Insurance Contributions. In this respect, the Government states that the extra cost to employers, which amounted to £670 million per annum, was more than offset by reductions in contributions amounting to £800 million per annum. The Government states that it would understand the concern of the Trades Union Congress if there were evidence that the rules concerning the payment of sickness pay were not being respected. Some 13 cases were reported, of which the Department of Social Security was aware, but this figure is very low when it is considered that around 1 million employers are responsible for sickness pay and that 300,000 employees receive such benefits at any one time. The Government adds that the system is under regular control and that the Contributions Agency will continue to monitor the manner in which it is administered and implemented and will take the necessary measures (including legal proceedings) against employers who do not properly fulfil their obligations in this respect or if they dismiss employees in order to avoid providing sickness pay.

The Committee also notes certain changes in the statutory sick pay scheme since the communication from the Trades Union Congress. Under the Statutory Sick Pay Percentage Threshold Order, No. 512 of 1995, all enterprises have the right to recover the amount by which the payments of statutory sick pay made in any income tax month exceed 13 per cent of the amount of their contributions payments, while abolishing the specific provisions applicable up to then to small employers.

The Committee recalls that *Articles 1 and 6 of the Convention* provide for the setting up of a system of compulsory sickness insurance which shall be under the administrative and financial supervision of the public authorities. However, it considers that the changes made by the Statutory Sick Pay Act 1994 and subsequent regulations may be considered to be covered by *Article 3, paragraph 3(a)*, of that instrument. Under the terms of these provisions, the cash benefit may be withheld where in respect of the same illness the insured person receives compensation from another source to which he is entitled by law and which is equal to the amount of the benefit provided in *paragraph 1 of Article 3*. It is clear that in such a case the sickness payments made by enterprises are considered to be "benefits" and shall be provided under the conditions established by the Convention. The Committee requests the Government to supply information on the effect given in practice to the Statutory Sick Pay Act 1994, including statistical data on the results of the control carried out by the Contributions Agency, the violations reported and the sanctions imposed, as well as copies of any administrative or judicial decisions made in this respect. It also requests the Government to indicate the manner in which and the provisions under which the payment of statutory sick pay is assured in the event of the insolvency of the employer.

The Committee also notes that the Government plans to undertake a study on the impact that the changes made to the sickness pay scheme have had on employers and workers, and particularly on the recruitment and retention of workers. The Committee would be grateful to receive a copy of the above study when it is completed.

2. The Committee requests the Government to supply detailed information on the implementation of the Social Security (Incapacity for Work) Act 1994, which came into force on 13 April 1995.

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In addition, requests regarding certain points are being addressed directly to *Algeria, Slovenia*.

Convention No. 25: Sickness Insurance (Agriculture), 1927

Chile (ratification: 1931)

See under Convention No. 24.

Colombia (ratification: 1933)

See under Convention No. 24.
[The Government is requested to report in detail in 1997.]

Haiti (ratification: 1955)

See under Convention No. 24.

Peru (ratification: 1945)

See under Convention No. 24.
[The Government is requested to report in detail in 1997.]

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In addition, a request regarding certain points is being addressed directly to *Slovenia*.

Convention No. 26: Minimum Wage-Fixing Machinery, 1928

Austria (ratification: 1974)

The Committee notes the report, which was not requested, transmitted by the Government.

In its previous comments, the Committee referred to the comments made by the Federal Chamber of Labour concerning the effects of the withdrawal of negotiation mandates by employers for collective agreements on the fixing of minimum wage rates. It requested the Government to supply information on the use by the Central Conciliation Office of the procedure by which a collective agreement is declared as having the effect of a binding statutory instrument in sectors where the employers have withdrawn their mandate to negotiate collectively the fixing of minimum wages.

The Committee notes the Government's statement that the issue of the withdrawal of negotiation mandates for collective agreements is not covered by Convention No. 26. The Committee recalls that its comments concerned the consequences of the withdrawal of negotiation mandates for collective agreements on the application of the Convention, which provides for the use of minimum wage-fixing machinery freely decided upon by each State bound by this instrument, whereby minimum rates of wages can be fixed in practice.

The Committee also notes the explanations concerning the above procedure, a subsidiary instrument the principal objective of which is to protect and/or supplement the system of collective agreements. The procedure is used three or four times a year, including its "traditional" purpose of extending a collective agreement to employers which have not signed the agreement or do not belong to the signatory organization. It notes the Government's statement that the machinery for the fixing of minimum wages is very effective in Austria and that the level of coverage by collective agreements is around 98 per cent according to the OECD.

The Committee requests the Government to continue supplying information on the use of the above procedure in cases other than the "traditional" cases of the extension of agreements referred to by the Government.

Dominican Republic (ratification: 1956)

The Committee refers to its previous observation concerning the comments made by the Employers' Confederation of the Dominican Republic on the application of the Convention, in which it requested the Government to indicate the action taken by Congress on a Bill designed to lead to an overall increase of 30 per cent in wages and the measures taken to ensure that employers' and workers' organizations are consulted with regard to minimum wage-fixing in accordance with the Convention.

The Committee notes from the Government's report that Congress has not taken a decision on the above Bill, but has accorded a general increase in remuneration in the public service. With regard to the private sector, the National Wages Commission, a tripartite body composed of government representatives and representatives of employers and workers appointed by their respective organizations, decided upon an increase in the statutory minimum wage of 20 per cent.

The Committee requests the Government to continue supplying information on the measures which have been taken or are envisaged to ensure the fixing of minimum wages. A request relating to other points is being addressed directly to the Government.

Paraguay (ratification: 1964)

The Committee notes the conclusions and recommendations of the tripartite committee set up to examine the representation made by the Latin American Central of Workers (CLAT), which were approved by the Governing Body of the ILO at its 264th Session (November 1995).

Article 3, paragraph 2(2) and (3), of the Convention (in relation with point V of the report form). The Committee recalls that in its representation the CLAT states that the enterprise EXIMPORA SA has not complied with national minimum wages standards, which tantamounts, by implication, to non-compliance with the provisions of Article 3, paragraph 2(3), of the Convention, which guarantees the right to receive the minimum rates of wages, as fixed nationally, and at the same time excludes the possibility that these rates may be subject to abatement by individual agreement. The Committee also recalls the Government's statement in its communication that the Labour Code, in Chapter II, establishes and regulates the minimum wage, as well as determining the machinery for fixing it and the cases in which it may be modified as a function of the economic situation and variations in the cost of living. The Government indicates that section 252 of the Labour Code envisages the establishment of a tripartite body, the National Minimum Wage Council, which it has not yet been possible to establish due to the fact that the Workers' Central Organization (CUT) and the Latin American Central of Workers (CLAT) have not appointed their representatives. However, the Government adds that, in accordance with section 256 of the Labour Code, Decree No. 4598, adopted on 11 July 1994, raises minimum wages in order to take into account the increase in the cost of living and the decline in the purchasing power of the population. Nevertheless, the Committee notes that according to the various studies carried out under the auspices of the ILO on labour relations in Paraguay, the situation denounced by the CLAT is only one example among many of the generalized non-compliance with the obligations deriving from the Convention.

The Committee requests the Government to indicate the measures which have been taken or are envisaged to ensure the application of the national legislation so as to guarantee: (i) the participation of representatives of workers and employers in minimum wage-fixing machinery, in accordance with *Article 3, paragraph 2(2)*; and (ii) the right to receive the minimum rates of wages which have been fixed, which may not be subject to abatement by individual agreement, in accordance with *Article 3, paragraph 2(3)*.

Article 4 (in conjunction with *point V of the report form*). The Committee notes that section 259 of the Labour Code provides that "any worker who has received a wage lower than the established minimum is entitled to reclaim from his employer the amount remaining due. The labour administration shall establish a time period for the recovery of this amount, which may not exceed 30 days. The Committee also notes that, without prejudice to the other measures contained in the Code (section 384), section 390 provides that ""employers who pay their workers wages lower than the minimum legal amount or the amount established by collective agreement shall be punishable by a fine amounting to a minimum of 30 days' wages for each worker concerned and double that amount for any repetition of the offence". The Committee also notes that the responsibility for ensuring the application of the requirements set out in labour laws and regulations and compliance with the obligations contained in the Labour Code is entrusted to the labour inspection services, by virtue of Decree No. 3286 of 4 March 1964, which empowers those services to carry out the necessary inquiries to identify violations and refer them to the labour administration (Directorate of Labour).

The Committee requests the Government to indicate the measures which have been taken or are envisaged to ensure the application of the national legislation with a view to: (i) making possible the operation of the national bodies which are responsible for supervising the application of the standards respecting minimum wages; and (ii) guaranteeing, through the labour administration authority, the recovery of any further wages due to workers who have received wages lower than the applicable minimum wage.

Point V of the report form. The Committee would be grateful if the Government would supply information on the effect given in practice to the Convention: (i) by supplying the available statistical data on the number and various categories of workers covered by the minimum wage regulations; and (ii) by indicating, for example, the results of the inspections carried out, the violations reported and the sanctions imposed.

[The Government is asked to report in detail in 1996.]

Turkey (ratification: 1975)

The Committee notes the Government's report, the information provided orally to the Conference Committee in June 1995 and the ensuing discussions in that Committee. It also notes the observations made by the Turkish Confederation of Employers' Associations (TISK) and the Confederation of Turkish Trade Unions (TURK-IS).

Homeworkers. The Committee refers to the above comments by the TURK-IS to the effect that homeworkers are excluded from the scope of minimum wage-fixing machinery. It requested the Government to indicate the texts governing the terms and conditions of employment of homeworkers and the measures taken to determine the minimum wages applicable to them.

In its report, the Government recalls that the Labour Act No. 1475 applies to all persons working under an employment contract in return for remuneration in any type of employment, and that the term "contract of employment" is defined not by the above Act, but by the Code of Obligations as an agreement whereby the worker undertakes to perform work, with or without an indication of time, and the employer undertakes to pay remuneration. The Government states that homeworkers who principally perform piece-work are not, by virtue of case-law established by the Supreme Court, covered by Act No. 1475, on the grounds that the work is not performed at the premises of the employer, who is not therefore able to exercise authority and control. The Government also states that, although homeworkers are considered to be workers under the terms of the Code of Obligations, they do not benefit from statutory minimum wages, but do have the right to establish and join occupational organizations to defend their interests and can negotiate the minimum wage rates applicable to them.

The TISK states that the nature of home work is such that it is not possible to apply a minimum wage due to the fact that in Turkey this type of work is not paid at an hourly rate, but at piece-work rates. The TISK also refers to an ILO report on home work (ILC, 82nd Session, Report V(1)) in which emphasis is placed on the difficulties involved in supervising this form of employment. The TISK draws the conclusion that the workers concerned must not be considered as falling within the scope of labour legislation.

In its observations on this matter, the TURK-IS states that there are two categories of homeworkers: those who work at home under the terms of a contract providing for the payment of a wage, who are covered by labour legislation, and those who work at home under the terms of a contract which is not legally a contract of employment, but a contract for services. Although the latter are considered under the law to be self-employed workers, in practice they are regarded as employees, although they are not covered by Act No. 1475 and are not covered by minimum wage rates.

It can be deduced from this detailed information that as to the homeworkers, even though they are considered to be workers under the terms of the Code of Obligations, the existing minimum wage-fixing machinery does not apply to them. In the first place, the Committee recalls that *Article 1 of the Convention* requires that machinery be created or maintained "whereby minimum rates of wages can be fixed for workers employed in certain of the trades or parts of trades (and in particular in homeworking trades) in which no arrangements exist for the effective regulation of wages by collective agreement or otherwise and wages are exceptionally low". The fact that homeworkers, although they might be considered workers under the terms of the Code of Obligations, are excluded from the scope of Act No. 1475, is an additional reason for measures to be taken by the Government to achieve the objective of the Convention. The Government is free to decide upon the means of achieving this aim, subject to holding the consultations provided for by the Convention and respecting the principle of equality of representation of employers and workers. In the second place, the Committee recalls that the method of calculating minimum wage rates, on an hourly or piece-work basis, is not covered by the Convention and that minimum wage rates can be fixed for piece-work rates. With regard to the difficulties of supervising home work, the Committee also recalls that *Article 4, paragraph 1, of the Convention* provides for the adoption of the necessary measures to ensure that wages are not paid at less than the applicable minimum wage rates.

The Committee requests the Government to indicate the measures which have been taken to ensure the existence of minimum wage-fixing machinery and the effective fixing of minimum wages for categories of homeworkers considered to be workers under the terms of the Code of Obligations.

Domestic workers. The Committee notes the information provided concerning domestic staff working at the residence of the employer, who are not covered by Act No. 1475 and who do not therefore benefit from minimum wages. With reference to the information that it provided above, the Committee requests the Government to indicate the measures which have been adopted to ensure the existence of minimum wage-fixing machinery and the effective fixing of minimum wages for domestic workers who respond to the criteria set out in *Article 1, paragraph 1*, of the Convention (absence of arrangements for the effective regulation of wages and the low level of wages).

Supervisory machinery. The Committee notes from the Government's report that during the course of 1994 a total of 58 workplaces were inspected under the legislation respecting minimum wages and that fines were imposed to a total amount of lira 27,500,000. The Government states that a Bill to multiply by five the amounts of the fines set out in Act No. 1475 has been included on the agenda on the National Assembly. It also notes the observations of the TURK-IS to the effect that in September 1993 there were a total of 610,127 workplaces registered with the authorities and paying social security contributions in respect of their employees. The TURK-IS considers that there are not enough inspectors and that they do not have sufficient powers to ascertain that the requirements of the Convention are being met.

The Committee requests the Government to supply information on the system of supervision and the sanctions established to ensure compliance with the provisions respecting minimum wages.

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In addition, requests regarding certain points are being addressed directly to the following States: *China, Comoros, Dominica, Dominican Republic, Guinea-Bissau, Sierra Leone, Solomon Islands*.

Convention No. 27: Marking of Weight (Packages Transported by Vessels), 1929

A request regarding certain points is being addressed directly to *France*.

Convention No. 29: Forced Labour, 1930

Brazil (ratification: 1965)

The Committee referred in previous comments to the situation of thousands of workers, including minors, subjected to forced labour, in conditions of debt bondage, to the use of false promises of recruitment and the use of violence to punish and detain anyone attempting to escape in various sectors of the rural economy and in mining.

The Committee has suspended examination of this matter while awating the conclusions of the tripartite committee set up by the Governing Body to examine the representation made in 1993 by the Latin American Central of Workers (CLAT) under article 24 of the ILO Constitution alleging non-observance by Brazil of Conventions Nos. 29 and 105.

At its session in November 1995, the Governing Body adopted the report of the Committee set up to examine the representation (document GB.264/16/7) whose recommendations include follow-up of these matters by the Committee of Experts on the Application of Conventions and Recommendations.

The Committee notes the report of the Committee set up to examine the representation (GB.264/16/7).

The allegations

The allegations examined by the Committee refer to the situation of many workers, in various sectors of the rural economy, who are subjected to forced labour and debt bondage, are recruited on the basis of false promises, transported from their places of origin or residence, confined to workplaces which are isolated or difficult to reach, have their work papers taken away from them, are forced to work in subhuman conditions, in many cases without a wage and sometimes only in exchange for poor food, work long hours, are housed in precarious, unhealthy and unsafe accommodation, and are forcibly prevented from terminating their employment relationship by acts of physical and moral violence.

The Committee notes the allegations contained in the report regarding *aliciamiento* which entails inducing workers to accept their transfer from one part of a national territory to another. This form of recruitment, which is illegal under section 207 of the Penal Code of Brazil, is used by the so-called "gatos" who by deceitfully promising good wages to workers in regions of widespread unemployment and poverty pursuade them to move to places far from their places of origin or residence. The transfer of labour increases the vulnerability of workers, who in many cases do not know exactly where they are working, and facilitates coercive practices. When the workers reach these places they find they have contracted a "debt" in respect of the advance partial payment made, their transportation, food, tools, etc. At the workplace the debt increases because the only source of food essential to their survival is the company store. Repayment of the debt means that workers can be kept working for months or even years without a wage.

The Committee also notes that the testimony of workers, presented by the CLAT, refers to practices of retention of documents, corporal punishment, torture and death threats, to prevent the worker from leaving the workplace.

The CLAT alleges that the practice of forced labour is closely linked to the modernization of agriculture in the country and the actual financial system in agricultural activities.

In an attempt to modernize and develop the region, tax incentives have attracted to the countryside large financial and industrial groups, which have been granted tax reductions of up to 50 per cent provided that two-thirds is invested in agricultural or industrial projects in the "Legal Amazon". These groups include national banks such as Bradesco, BCN (Labour Credit Bank), Banco Real, Banco Bamerindus, and multinational corporations such as Volkswagen, Nixdorf and Liquigaz. Since the volume of resources depended on the size of the land, such projects resulted in the financing of large estates and a worsening of the problem of land concentration, which in the end encouraged the exploitation of rural workers and it cited as an example the case of the Reunida and Alto Rio Capim farms owned by Bradesco in which it stated that there was slave labour. The CLAT alleges that the highest concentration of cases involving slave labour has been recorded in areas in which development projects such as the *Carajas* programme of the World Bank have been implemented.

The allegations indicate that charcoal production, tree felling, deforestation and reforestation activities, alcohol manufacture and agricultural activities for the cultivation and harvesting of coffee and tomatoes are the main sectors of the economy in which cases of forced labour have been observed.

According to the CLAT, slave labour in the country is concentrated in charcoal production. In its report, the Committee set up to examine the representation notes the information contained in the report submitted by the ILO official who took part in a fact-finding mission to the charcoal production works of Mato Grosso do Sul according to which it is obvious that the woodcutters and the workers responsible for the ovens are subject to debt bondage. The same report indicates that the working day exceeds 12 hours, in thick smoke, that there is a high rate of lung infection due to the smoke and environmental pollution, and that the intense heat causes inflammation of the eyes and loss of vision within a few years. The worker's wife and children also work in the same conditions to increase output. The children remove the charcoal from the ovens where they are exposed to considerable risk, and there are countless accidents with the shovels they use. The workers are housed some 30 metres from the ovens, there is smoke everywhere, there are no beds, and the workers and their families sleep on wooden planks.

The National Confederation of Agricultural Workers (CONTAG), in observations made in June 1994, refers to the causes it believes give rise to the situation in the charcoal works in the northern region of the state of Minas Gerais, which include the concentration of land ownership, lack of agrarian reform, widespread penetration of reforesting activities and lack of inspection.

According to the CLAT, deforestation has been used as justification by various financial groups to obtain large tax benefits under the programmes of international financial organizations. The use of intermediaries responsible for deforestation by such groups ensures that workers are kept at a distance in legal terms from the economic interests involved in such projects; but the slave labour present in this sector of activity is linked through a complex network of relationships to major financial groups.

The CLAT also alleges that trials are subject to delay, the inspection system is ineffectual and those responsible act with impunity.

The Government's observations

The Committee notes the observations provided by the Government in relation to the allegations set out in the report. The Committee observes that various programmes and commissions have been established with the specific task of combating forced labour: the Programme for the Eradication of Forced Labour (PERFOR) in 1992, the National Labour Board (set up under the Ministry of Labour) and within this Board, the Committee for the Elimination of Slave Labour made up of representative organizations of employers and workers, state bodies and civil organizations and in June 1995 the Executive Group for the Abolition of Forced Labour (GERTRAF).

In regard to the inspection system, the Committee notes that the Government provides summary tables of the inspection carried out into the cases of forced labour reported and of Interdepartmental Directive No. 01 of 23 March 1994 on inspection procedures in the rural area which lays down the criteria under which a situation can be described as slave labour and it can be considered that there is evidence of *aliciamiento* (illegal transfer of workers to other parts of the country).

The Government also indicates that a number of seminars have been held on the topic of forced labour including those organized by the Working Committee of Administration and the Public Service, with the participation of the CPT (Pastoral Commission on Land), the CONTAG (National Confederation of Agricultural Workers), the CUT (Unitarian Central of Workers), the Attorney-General and a dozen Members of Parliament. The conclusions of the seminar noted the slowness of the judiciary and the Ministry of Labour, difficulties linked to the imprecision of the concept of slave labour and the problem of attributing competence, the failure to punish the authors of the crimes and the lack of joint action between the public authorities and civil bodies.

The Government also supplied information on the inspection carried out in alcohol distilleries which were denounced for the practice of slave labour and in the estates producing soya and tomatoes. The Government also communicated the report of the Secretary of State of Justice and Citizenship of the state of Espíritu Santo (1993) concerning the complaint lodged by SINTRAL (Trade Union of Forestry and Firewood Workers in the north of the state) which contained the conclusions of the investigation conducted by the officials responsible for looking into the complaint which revealed the existence of real slave labour; the same report indicated that the phenomenon known as "tercerizaçao" (recruitment of workers by a third party) encourages the exploitation of workers in conditions of slavery and noted the impunity of the large enterprises that profit from such practices.

In September 1994, the Government supplied the reports of the inspection carried out into the cases reported by the complainant organization. The Committee noted that for the most part, even where the inspection confirmed the existence of slave labour, mere fines were imposed or deadlines for regularizing the situation, subject to fines in case of non-compliance.

The Committee notes that in its report of 1995 on rural conflicts in 1994, the Pastoral Commission on Land indicates that the figures relating to cases of slave labour in 1994 show a worsening of the situation. The number of victims rose from 19,940 in 1993 to 25,193 in 1994 which can be attributed to the cases of slave labour observed in various charcoal-producing plants in the region of Montes Claros in Minas Gerais which involved 10,000 workers and six municipalities of Mato Grosso do Sul which involved 8,000 adults and 2,000 minors. The case of minors engaged in heavy labour in the countryside was, according to the CPT, the most significant and alarming in 1994. With reference to the use of violence to exact forced labour, the report refers to various cases in which the persons denounced by workers who have given evidence are identified. In the case of the coffee estate of Santa Teresa in Espíritu Santo the workers have reported that they work under threat of corporal punishment and the case of a worker aged 65 years old who was beaten and seriously injured by the overseer because he asked to return to his place of origin. In the Livramento estate (Rondonia), the murder of workers has been reported; at the Estrela de Maceio estate (Santana do Araguaia), a worker gave evidence on the use of corporal punishment in the case of a worker (answering to the name of "Negao") who tried to escape. The worker was brought back to the estate by the manager and threatened with death and has not been seen since then. At the Vila Rica estate, a guard was discussing with other guards having murdered a worker. At the Tervoy estate, the murder of one worker and the paralysis suffered by another worker as a result of being shot in the spine have been reported. At the Santa Maria (Rondonia) estate, an armed militia is maintained to prevent escape; five workers are missing. At the Castanhal estate, armed guards threaten with death anyone trying to escape and murders of workers have also been reported at the Peralta estate. Workers' families at the Bannach estate (Rio Maria, Pará) reported the disappearance of two workers. In the report the case of the distillery Alcool do Pantanal Ltd., affiliated to Alcopan (cane-producers' cooperative of Poconé, Mato Grosso), is also cited in which, according to the Regional Labour Delegation responsible for inspection, 500 workers including a 14 year old girl were subjected to excessively long working days, could leave the place of work only with authorization and worked under the custody of armed "gatos". The report mentions similar situations in the estates of Tapete Verde (Pará), Cabeça de Egua (Sao Felix do Xingú) and Adao.

The Pastoral Commission on Land (CPT) also refers in its report to variations in the conduct of the labour authorities in different states and the effect this has on the eradication of slave labour. The CPT states that the Standing Commission for Investigation into Working Conditions in the Charcoal Works and Alcohol Distilleries of Mato Grosso do Sul (set up in 1993 and composed of 11 state secretariats and government bodies and 16 non-governmental organizations) investigates cases seriously. Three public civil investigation procedures have been established by the Regional Labour Attorney's Office in relation to reports of exploitation of indigenous labour in the charcoal producing works and alcohol distilleries. In Minas Gerais, the Regional Labour Delegation (DRT), in collaboration with the Ministry of Labour and the Federation of Workers in Agriculture (FETAENG), inspected around 110 workplaces and noted 125 violations. In May 1994, the Legislative Assembly established a Parliamentary Commission of Inquiry to investigate the situation of workers in the charcoal producing sector and in June a report was published in which five types of slave labour were described. In December, the Commission proposed in its conclusions joint inspection by the Ministry of Labour, Secretary of State, rural workers' and employers' trade unions and the adoption of specific legislative provisions to oblige enterprises to apply labour laws. Furthermore, an agreement was signed in the Regional Attorney's Office with 25 mining companies in which they undertook to take direct responsibility for the contracting firms in administering workers. The report states that the regional labour delegate who carried out the inspection was dismissed in 1994. In the State of Pará the situation was different. According to the CPT, in the report of the Regional Labour Delegation of Pará on investigation of cases of slave labour in 1993, it was found that there were no cases of slave labour in the 15 cases reported. The CPT rejected these conclusions and reported to the DRT of Pará that in the case of the Uniao (Agua Azul) estate, the existence of slave labour had been confirmed by a delegate of the Xinguara civil police who had collected statements from six fugitives. The DRT of Pará admitted it had not inspected either the Uniao estate nor the Santa Cristina estate, in Santana do Araguaia.

The report states that the civil police freed enslaved workers at the Santa Maria estate (Corumbiara) and detained the owners who were released on bail the following day.

The CPT considers moreover that adoption of the instruction laying down standards for inspection procedures in the rural area and the Bill reforming the Penal Code have been important steps in the fight to eradicate slave labour.

The Committee notes with interest the wealth of information provided by the Government on this matter.

The Government supplied the summary table of the investigation of reports of forced labour in 1994. The Committee observes that of the 38 cases investigated, four led to the lodging of a civil action and two to public investigation; in one case (Santa Teresa estate, Marabá) a manager who admitted he had beaten a worker and an armed guard were detained; in the Acapulco (Xinguara) estate a "gato" was detained for being in possession of three firearms.

The Committee notes that the conclusions in the inspection reports do not refer to the situation of the worker in relation to "debt bondage" and refer in the majority of cases to serious violations of labour legislation. The Committee observes that this document does not contain information about the penalties which have been imposed. In the case of the Santa Teresa estate, the conclusions of the report note complete failure to apply labour legislation, the existence of dreadful conditions of hygiene and housing (plastic huts, promiscuity), the fact that food is supplied by the estate canteen without the worker being informed of its price, that the workers are supervised by armed guards and the confirmation from the manager that he had beaten a worker. In the case of the

Rio Negro estate, the inspectors were informed that a "gato" (who was identified) who had now left the estate had murdered two workers and that a complaint had been made to the civil police.

The Commission notes the establishment of the Special Flying Inspection Group by Ministerial Decree (*portaria*) 550 MTB of 14 June 1995 directly dependent on the Inspection Secretariat of the Ministry of Labour. This group has conducted inspections in the charcoal works of Mato Grosso do Sul and in the southern region of the Pará state at the period when workers are often engaged to clean land.

The Government indicates that another measure taken is the establishment of a working group to revise Inter-Secretariat Instruction No. 01 of 1994 on inspection procedures in rural areas. The Government adds that despite the fact that this standard initiated a new phase in the prevention and abolition of forced labour, experience has demonstrated the need to give labour inspectors guidance so that in inspection reports they supply the information allowing judicial proceedings to be initiated.

With reference to coordination with other bodies and units, the Ministry of Labour has acted in the framework of the agreement signed in November 1994 with the Federal Public Prosecutor, the Public Procurates for Labour and the Federal Police in jointly discussing, planning and evaluating the Government's action designed to prevent and abolish forced labour. The Ministry of Labour has also participated in monthly meetings of the National Forum against rural violence, consisting of governmental and non-governmental bodies such as the Pastoral Commission on Land (CPT) and the National Confederation of Agricultural Workers (CONTAG). At these meetings, reports were presented and the inspection and supplementary action strategies were discussed.

In addition, in order to solve the problem of transfer of workers, which encourages the practice of forced labour, the Ministry of Labour signed a Convention with CONTAG in the framework of the United Nations Development Programme (UNDP) with the aim of conducting a study (currently in progress) on the sending and receiving areas of rural workers.

The Government also indicated the establishment of the Executive Group for the Abolition of Forced Labour (GERTRAF), instituted by the President of the Republic in June 1995 and consisting of representatives of the Ministries of Labour, Justice, the Environment, Water Resources and "Legal Amazon", Agriculture, Agrarian Reform, Industry, Trade and Tourism which will have competence to formulate, apply and supervise a programme to abolish forced labour, to coordinate the action of the competent bodies for abolishing forced labour, to act jointly with the ILO and with the Public Prosecutors' Offices of the Union and of the States for the purpose of strict application of the pertinent legislation and the formulation of the necessary legal instruments to establish the programme for the abolition of forced labour.

The Committee had noted the provisions of sections 184 and 186 of the National Constitution under which rural premises which are not fulfilling their social function can be commandeered; this may be done by application of the provisions which govern the labour relationship. The Committee had also noted section 149 of the Penal Code which provides for a prison sentence of from two to eight years for anyone who reduces a person to conditions similar to slavery and section 207 of the Code which provides for a prison sentence of between two months and one year for anyone who transfers people to and from one part to another of the national territory.

The Committee notes that in its conclusions the Committee set up to examine the representation alleging non-observance by Brazil of Conventions Nos. 29 and 105, in the light of the provisions of these Conventions, after examining the allegations submitted by the complainant organization, extensively documented by information from the national trade unions, the National Confederation of Agricultural Workers (CONTAG), the Unitarian Central of Workers (CUT), the Labour Inspectors' Association (AGITRA), the Pastoral Commission on Land, Brazilian and international non-governmental organizations such as Anti-Slavery International and Americas Watch and by government observations, official inspection reports, documents from various public authorities and press articles, reached the conclusion that the allegations that thousands of workers, including minors, in certain regions and types of enterprise, are subjected to forced labour by means of debt bondage are well-founded and that this situation is in violation of Conventions Nos. 29 and 105 which have been ratified by Brazil.

In its conclusions, the Committee also observes that the allegations that the proceedings initiated have been slow are well-founded and that few penalties have been imposed on those responsible for the exaction of forced labour. The Committee further observes that the few people who have been convicted of exacting forced labour have been intermediaries or smaller owners and lease- holders, while the owners of large estates or enterprises that use the "services" of "third party" enterprises or individual intermediaries for production activities that are conducted under conditions of forced labour have gone unpunished. The Committee observes, moreover, that the phenomenon of "tercerizaçao" (recruitment of workers by a third party) favours the impunity of those who ultimately benefit most from the practice of forced labour.

The Committee notes the conclusions on the question of sanctions that "although the Government's response to the allegations shows that it has taken steps to combat forced labour, it does not show any evidence of compliance with Article 25 of Convention No. 29, which stipulates that 'the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced'".

The Committee notes that the Government's reports on Conventions Nos. 29 and 105 contain no information about penal sanctions actually imposed on those responsible for exacting forced labour.

The Committee observes that, despite the action taken at federal level and in some States with a view to eradicating forced labour, there are considerable shortcomings in the application of Conventions Nos. 29 and 105. The problems raised imply serious violations of Convention No. 29 since thousands of workers who are in a situation of complete dependence, work under conditions of debt bondage, unable to terminate their employment relationship which was begun on a false basis, which carries on in conditions which do not correspond to the agreement, nor to that laid down in the laws of the country and which they cannot terminate without running the risk of suffering ill-treatment, harsh torture and, sometimes, death. Furthermore, this situation is not in accordance with the obligation set out in Article 1(b), of Convention No. 105 on the abolition of forced labour as a method of using labour for purposes of economic development.

The Committee trusts that the Government will take the necessary measures to ensure that, in conformity with the Convention and with the pertinent provisions of national legislation, penal sanctions are imposed on anyone declared responsible for exacting forced labour and that it will supply a copy of the judicial sentences handed down in application of the provisions of sections 149 and 207 of the Penal Code, particularly in the cases mentioned.

The Committee hopes that the Government will supply information on the measures taken at federal level and in the various States to follow up the recommendations made by the Committee set up by the Governing Body to examine the afore-mentioned representation which refers to the speeding up of the proceedings initiated and the strengthening of the inspection system. The Committee also requests the Government to supply information on the activities carried out in the framework of the integrated programme on the abolition of forced labour for which GERTRAF is responsible.

Burundi (ratification: 1963)

In its previous comments, the Committee noted the information provided by the Government in June 1993 to the effect that the process of adapting and harmonizing legislation with the Convention was continuing; a technical file on this subject, of which the Government supplied a copy, was submitted in March 1993 by the Minister of Labour to the Minister of the Interior. The Committee noted that according to this file the draft texts for repealing the provisions concerned had already been prepared.

The Committee notes that in its latest report the Government appeals for comprehension by the ILO supervisory bodies of the fact that the approaches to the competent services of the Ministries of Justice and of the Interior are not yet complete as political events have not allowed the consultations initiated by the Ministry of Labour to continue normally. Nevertheless, the Government has promised to make every effort to ensure speedy completion as soon as the political and administrative situation in the country has returned to normal.

The Committee takes due note of this commitment. It hopes that the Government will soon be in a position to supply information on the specific measures it has adopted on the following points, raised in previous comments:

> 1. In its previous comments concerning Ordinances Nos. 710/275 and 710/276, establishing obligations respecting the conservation and utilization of the land and the obligation to create and maintain minimum areas of food crops, the Committee emphasized the need to set out in the law the voluntary nature of agricultural work.
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> The Committee notes the Government's statement in the above note that measures to repeal these Ordinances should be envisaged in the very short term. The Committee requests the Government to supply the texts to repeal the above Ordinances, once they have been adopted.
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> 2. The Committee referred to certain texts relating to compulsory cultivation, porterage and public works (Decree of 14 July 1952, Ordinance No. 1286 of 10 July 1953, Decree of 10 May 1957) and recommended that they be formally repealed.
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> The Committee noted the Government's statement that explicit measures to repeal the above texts are justified, principally due to their colonial nature and the fact that they have fallen into abeyance, and that measures have been undertaken with a view to repealing them.
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> The Committee notes that the file supplied by the Government confirms this intention. The Committee requests the Government to supply a copy of the texts which are adopted for this purpose.
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> 3. The Committee noted that Legislative Decree No. 1/16 of 29 May 1979 establishes the obligation, under penalty of sanctions, to perform community development work.
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> The Committee notes that the above file recommends that the text in question be repealed and be replaced by the relevant provisions of Legislative Decree No. 1/11 of 8 April 1989 to reorganize communal administration. The Committee requests the Government to supply information on the provisions adopted in this respect.
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> 4. With reference to sections 340 and 341 of the Penal Code, which establish sanctions for vagrancy and begging, and to its previous comments, the Committee notes that an opinion has been requested from the Ministry of the Interior on this subject. The Committee requests the Government to supply information concerning this opinion and on the programme of vocational rehabilitation which the Government considers should serve to avoid vagrancy and

begging by assisting persons without employment. The Committee notes Ordinances Nos. 660/161 of 1991, 660/351/91 and 660/086/92, the texts of which were supplied by the Government.

Chad (ratification: 1960)

In the comments that it has been making for many years, the Committee has drawn the Government's attention to a number of provisions that are contrary to the Convention and section 5 of the Labour Code, namely:

- section 260 bis of the General Code of Direct Taxes, which empowers the authorities to exact labour for the recovery of taxes. The Committee notes the Government's indication that section 982 of the new Tax Code retains the same provision as section 260 bis. The Committee requests the Government to take the necessary measures to ensure compliance with the Convention on this matter and asks it to provide a copy of the new Tax Code.
- section 2 of Act No. 14 of 13 November 1959, which empowers the authorities to exact forced labour for work of public interest from persons subjected to restrictions as to residence following the completion of their sentence. The Committee notes the Government's indications concerning the establishment of an inter-ministerial commission responsible for bringing the law into conformity with international labour standards. The Committee once again hopes that the Government will be in a position to report progress in this respect and that it will supply copies of the adopted texts.
- section 7(4) of Ordinance No. 2 of 27 May 1961 respecting the organization and recruitment of the armed forces, and sections 3 and 4 of Decree No. 9 of 6 January 1962 respecting the recruitment of the army, which permit the assignment of conscripts to work of general interest.

The Committee notes the Government's statement that these provisions were repealed by Ordinance No. 19/PR/MD-AC of 29 July 1972 (general conditions of service of military personnel), which was in turn repealed by Ordinance No. 006/PR/92 of 28 April 1992, issuing the general conditions of service of military personnel.

The Committee requests the Government to supply a copy of Ordinance No. 006/PR/92.

France (ratification: 1937)

The Committee notes the Government's report for the period from 1 January to 31 December 1994 and the observations on this matter sent to the Government by the French Democratic Confederation of Labour (CFDT), of which a copy was sent to the ILO under cover of a letter of 26 June 1995.

Article 2, paragraphs 1 and 2(c), of the Convention. In its report, the Government, referring to the definition of forced or compulsory labour given in Article 2, paragraph 1 of the Convention and the conditions laid down in Article 2, paragraph 2(c) for the exception concerning compulsory prison labour, recalls that prison labour satisfies the obligations of the Convention provided that it corresponds to one of the following two situations: either it is not exacted under the menace of any penalty from a person who has not offered himself voluntarily for that work; or, while being compulsory as a consequence of the conviction, it does not involve being hired to private persons. The Government considers that the legislative principles and regulatory provisions applicable to prison labour carried out in French prisons make it correspond fully to the first of these two situations.

In its previous observation, the Committee raised a number of questions concerning consent freely given by the prisoner, accompanied by the guarantees that labour law links to an employment contract, especially in regard to wages and social welfare, and it inquired more closely about the legal set-up of prisons the construction and management of which has been put into the hands of private enterprises, and on the conditions under which the prisoner is subjected to this "private operator".

Prisoner consent. In its previous observation, the Committee noted that the law of 22 June 1987 amending section 720 of the Code of Criminal Procedure made prison labour voluntary; however, according to the same law, both work and professional training are factors in assessing a convict's good behaviour and reinsertion potential. The Committee noted that under section 721 of the Code of Criminal Procedure, a reduction of sentence can be granted to prisoners for good behaviour. This assessment, which is to be made by the judge charged with following up the implementation of sentences, as provided under Article D.253 of the Code of Criminal Procedure, is based on the prisoner's overall behaviour, but also on his assiduousness at work. The Committee requested that the Government indicate the measures taken to ensure that the prisoner's consent cannot be vitiated by the fact that a favourable assessment implies assiduousness at work. In private prisons there are two inter-related forms of constraint: first, the private enterprise operating a prison includes prison labour in its profit calculations and, second, the private enterprise is not only a user of prison labour, but also exercises, in law or in practice, an important part of the authority which belongs to the prison administration.

In its latest report, the Government considers that the fact that occupational activity may be taken into account under the first paragraph of section L720 in assessing a convict's good behaviour and reinsertion potential can in no way constitute the "menace of any penalty" envisaged in the Convention. On the one hand, in fact, this assessment which may lead to a reduction in the sentence, is not of a kind to be assimilated to a threat of extending the sentence which has been passed on the convict. On the other hand, this assessment applies to good behaviour and reinsertion potential as a whole (section 721 and 721-1 of the Code of Criminal Procedure) shown by a convict and, in particular, success in general or occupational training examinations, conditions of participating in socio-educational, cultural or sports activities, and general behaviour in detention as recorded in the comments made by prison staff, in the opinion of the judge charged with following up the implementation of sentences. The fact that a convict does not wish to pursue an occupational activity, or cannot pursue it, or does not show assiduousness deemed sufficient in this activity, is therefore without effect on the length of his sentence in so far as his participation in the various activities offered to detainees and his behaviour in detention are evidence in themselves of his social integration.

The Committee takes due note of these indications. It notes that section 720 of the Code of Criminal Procedure does not provide that employment activities "may be" taken into account but that they "are" taken into account in assessing a convict's good behaviour and reinsertion potential. In regard to the "menace of any penalty" mentioned in Article 2, paragraph 1, of the Convention, and the difference, from this point of view, between the menace of extending the detention and that of depriving of release normally granted for good behaviour, the Committee recalls that, as it pointed out in paragraph 21 of its General Survey of 1979 on the abolition of forced or compulsory labour, it was specified during examination of the draft Convention by the Conference that the penalty envisaged in Article 2, paragraph 1, need not be in the form of a penal sanction but might take the form also of a loss of rights or privileges.

The menace in question in this case not only governs the initial acceptance of prison work but also accompanies the worker throughout his detention. As the CFDT noted in its observations, section D250 of the Code of Criminal Procedure provides that withdrawal of work is a penalty imposed for a disciplinary offence committed during or on the occasion of the work. This withdrawal has two consequences for the detainee: loss of his income; and a more unfavourable assessment of his reinsertion potential, and hence a consequence for the duration of his sentence. The CFDT considers that the absence of reference to clear contractual provisions, along with the difficulties of contesting internal sanctions handed down by the prison administration make detainees particularly vulnerable, and sometimes forced to accept an employment relationship which is not in accordance with those in the free world; according to the administration's will, the detainee may carry out his work in acceptable conditions or servile conditions.

Employment contract. In its previous observation, the Committee noted that under section 270, paragraph 3, of the Code of Criminal Procedure, the employment relationships of incarcerated persons are not covered by employment contracts. Section D.103 of the aforementioned Code excludes employment contracts in the relations between the prison administration and the detainee, for whom the administration obtains work, and between the concessionaire and the prisoner, who is placed at its disposal as provided in an administrative agreement setting, in particular, the wages and working conditions. The prisoner at work then becomes a worker deprived of a contract and labour law protection. Considering that in the case of private prisons the prison administration is, in law or in practice, in the hands of the enterprise using prison labour, the Committee requested that the Government examine the terms of sections 720, paragraph 3, and D.103 of the Code of Criminal Procedure and take necessary measures so that labour relations and conditions of employment of prisoners are governed by labour law and subject to labour inspection.

In its latest report, the Government, having recalled in some detail that the exercise of an occupational activity assumes a request for employment from the detainee and the agreement of the prison, indicates that the nature of the relationship existing between the detainee and the prison, characterized by the strength of the constraint stemming from the judicial decision, which sets aside the existence of a free and voluntary agreement between the two partners, does not permit the principle of establishing an employment contract between them to prevail. It is for this reason that section D.103 of the Code of Criminal Procedure specifies that these labour relationships do not include any employment contract and that amendment of this text is not envisaged.

The Committee takes due note of these indications; it also notes the CFDT comment that it is this same analysis which, for the Confederation, justifies the requirement of a contractual guarantee in regard to work by detainees.

In regard to the relationship between the prisoner and the private enterprise which uses and directs his work, the Government indicates that in the mixed management "Programme 13000" prisons, the private group has the same competence in organization of work as that of a prison work concessionary enterprise in a publicly managed prison and is subject to the same obligations. The labour relationship between the detainee and the enterprise using the labour or responsible for the work function do not give rise to an employment contract, as the enterprise is deprived of a large proportion of the rights and obligations incumbent on the employer, particularly in terms of recruitment and dismissal, "assignment" and "deassignment" being carried out by public officials.

The Committee observes that the relationship is a triangular one comparable to that existing between a temporary employment agency, the enterprise using labour and the temporary worker with, however, under current national legislation and practice, two differences which have a direct bearing on the observance of the Convention: the temporary worker has an employment contract and the protection of labour law, which is not the case for prison labour; furthermore, prison labour is captive labour in the full sense of the term, namely, in contrast to a temporary worker it has no access in law and in practice to employment other than under the conditions set unilaterally by the prison administration.

The Committee recalls that hiring out prison labour or placing it at the disposal of private enterprises is specifically covered by Article 2, paragraph 2(c), of the Convention, and that only work carried out in conditions of a free employment relationship, accompanied by corresponding guarantees, can be held not to come under the requirements of Article 2, paragraph 2(c).

In the absence of an employment contract and outside the scope of the labour law, it seems difficult or even impossible, particularly in the prison context, to reconstitute the conditions of a free working relationship, as the situation also reveals in respect of remuneration, social security, safety and health, and labour inspection.

Remuneration and conditions of employment. In previous comments, the Committee noted that the Government was aware of the inadequate level of remuneration of prisoners employed by private enterprises, whose "minimum prison wage" was set at 50-60 per cent of the hourly SMIC (minimum growth wage) depending on the prison regime, and that there were difficulties linked to low inmate productivity and to the low level of skills of the prison population. It requested the Government to re-examine the level of remuneration in the different regimes, and to indicate any measures taken or envisaged so that the provisions on the minimum growth wage (SMIC) are applied to prisoners working for private firms.

The Committee notes with interest the detailed information supplied by the Government. It notes that in the workshops of the national labour service in prisons, the average daily income in 1994 was 23 per cent higher than in the concessionary regime. Noting also the detailed comments of the CFDT concerning hourly wages, the right to compensation for industrial accidents and occupational diseases, hygiene and safety, and the role of the labour inspectorate, it requests the Government to communicate its observations concerning the various points raised by the CFDT.

The Committee hopes that the necessary measures will be taken both in law and in practice to ensure that prisoners made available to private enterprises have employment conditions allowing their situation to be assimilated to that of free workers. It requests the Government to supply detailed information on any measures taken to distinguish the situation of these workers in or regarding their employment from their situation in prison, particularly in regard to labour discipline and the assessment of reinsertion potential and good behaviour; to enable them to benefit from an employment contract and full application of labour law; and to improve their wages and working conditions.

Haiti (ratification: 1958)

The Committee notes with regret that no report has been received from the Government. It must, therefore, repeat its previous observation on the following point:

> In its previous observation the Committee referred to the report on children's rights in Haiti, prepared by the Minnesota Lawyers International Human Rights Committee in February 1989 and submitted to the Working Group on Contemporary Forms of Slavery of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities in August 1989 by an observer of the International Human Rights Internship Programme. The report refers to the use of children as servants, known in Creole as "restavek" from the French "rester avec" or "to stay with". Many poor families are alleged to be selling their children to urban families to work as domestics in conditions which are not unlike servitude. The children were forced to work long hours, with little chance for bettering their conditions; many children were reported to have been physically or sexually abused. Some of the girls who were "sold" as domestics at a young age did not know their family name or where their family lived and, thus, were unable to return to their homes. Many of the children presently living in the streets of Port-of-Prince had fled restavek situations, preferring a life without shelter or food to a life of servitude and abuse. The practice of restavek was openly compared to slavery in Haiti.
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> In presenting the report, the observer also alleged that while there were exceptions, the restavek children were very rarely treated like adoptive members of the restavek family. Usually there was a clear distinction between a restavek family's natural children and the restavek child, with the restavek children taking orders from the other children. Restavek children were not fed the same food as the rest of the family, worked long hours for no pay both inside and outside the home and often were not housed in the main dwelling, but in a separate shed or shade. Few were sent to school or otherwise educated. If a runaway was found by the restavek family, the child could be forced to return.
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> The Committee had noted these allegations. It also had taken note of sections 341 to 355 of the Labour Code of Haiti which contain detailed provisions for the protection of children employed as domestic servants and prohibit such employment of chidren below the age of 12.
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> The Committee had asked the Government to supply information on all measures taken to ensure the observance of the provisions of sections 341 to 355 of the Labour Code, including data on the action of the Social Welfare and Research Institute (IBESR), municipal authorities and the labour courts.
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> The Committee notes that in its report for 1992 the Government indicated that it was not, at present, in a position to supply to the ILO the information requested and that it undertook to perform a full inquiry into conditions of work in general.
>
> The Committee hopes that the Government will soon provide the information requested.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Honduras (ratification: 1957)

Article 2, paragraph 2(a) and (d), of the Convention. In the comments it has been making for some years, the Committee has referred to the situation concerning the non-military work that conscripts can be required to perform. Article 274 of the Constitution of the Republic (formerly article 320) provides that the armed forces shall cooperate with the executive branch in the fields of literacy campaigns, education, agriculture, conservation of natural resources, road construction, communications, health, land reform and in emergency activities. The Committee asked the Government to adopt the necessary measures to ensure that conscripts may be called upon to perform only work or services of a purely military character, except in cases of emergency, in conformity with Article 2, paragraph 2(a) and (d) of the Convention.

The Committee had noted that a draft executive decree had been prepared to amend the regulations issued under the Military Service Act, which provides that conscripts performing their military service shall be required to undergo only such training and preparation as is necessary for the proper performance of exclusively military duties, in conformity with the provisions of Article 2 of Convention No. 29 of the International Labour Organization.

The Committee had observed that an executive decree, inferior in rank to the abovementioned provision of the Constitution, did not appear to ensure observance of the Convention in this respect.

The Committee hopes that the Government will take the necessary measures to provide explicitly that non-military work can be exacted from persons performing compulsory military service only in cases of *force majeure*.

The Government is requested to indicate the progress made in this regard.

Ireland (ratification: 1931)

1. In earlier comments, the Committee noted in relation to section 53 of the Defence Act, 1954, the Government's indication that persons enlisted in the defence forces at an age lower than 18 years have no option to terminate their service unilaterally on reaching that age. Regulations prescribe minimum periods of enlistment which differ on the basis of the nature of the employment selected: general service, apprentice/technician, army, naval service, etc. The Government indicated that enlisted personnel might purchase their discharge. The Committee requested the Government to indicate at what age and under which pecuniary conditions a person enlisted as a minor may purchase his freedom.

In its latest report the Government indicates that in the view of the Attorney-General, service in the defence forces could not constitute forced or compulsory labour as defined by this Convention because such service would have been entered into voluntarily and the persons concerned would have been aware that they would be bound by military law and discipline.

The Committee takes due note of this view. Referring to the explanations provided in paragraphs 67 to 72 of its 1979 General Survey on the abolition of forced labour, the Committee recalls that, even where employment is originally the result of a freely conducted agreement, the worker's right to free choice of employment remains inalienable and the Committee has accordingly considered that the effect of statutory provisions preventing termination of employment by means of notice of reasonable length is to turn a contractual relationship based on the will of the parties into service by compulsion of law, and is thus incompatible with the Conventions relating to forced labour. The Committee also has pointed out that the provisions relating to compulsory military service included in the Forced Labour Convention do not apply to career military service and may not be invoked to deprive persons who have voluntarily entered into an engagement of the right to leave the service in peacetime within a reasonable period, either at specified intervals, or with previous notice, subject to the conditions which may normally be required to ensure the continuity of the service.

This is all the more so where the voluntary nature of the engagement is held by the Government against a person who entered such engagement while being a minor, with or without the consent of his parents or guardian.

The Committee again requests the Government to indicate at what age and under what conditions a person enlisted as a minor may leave the service.

2. With reference to its previous comments concerning sections 47(6) and 49(2) of the Defence Act, 1954, concerning the early retirement or resignation of officers, the Committee hopes that the Government will indicate in future reports any changes that may occur in the provisions concerned or in the manner of their application.

Japan (ratification: 1932)

The Committee takes note of the observations of the Osaka Fu Special English Teachers' Union (OFSET), dated 12 June 1995, concerning the application of the Convention during the years prior to the Second World War, and during that war. The Committee notes that the Convention was in force for Japan during that period. The allegations refer to gross human rights abuses and sexual abuse of women detained in so-called military "comfort stations", a situation which falls within the prohibitions contained in the Convention. The Committee recognizes that such conduct should be characterized as sexual slavery in violation of the Convention. The Government has made no comment on OFSET's letter, a copy of which was sent to it on 31 August 1995.

OFSET has asked for wages, compensation and other benefits arising from the forced labour of the women concerned. On the basis of the allegations as they appear in the trade union's communication, it would appear that these women would have been entitled to wages and other benefits under the Convention.

Under the Convention and the Committee's terms of reference, the Committee does not have the power to order the relief sought for compensation and wages. This relief can be given only by the Government. The Committee hopes that, in view of the time that has elapsed since these events, the Government will give proper consideration to this matter expeditiously.

Liberia (ratification: 1931)

The Committee notes with regret that no report has been received from the Government. It must, therefore, repeat its previous observation on the following matters:

> 1. *Penal sanctions for illegal exaction of forced labour.* Referring to its previous comments the Committee recalls that under Article 25 of the Convention, the illegal exaction of forced labour shall be punishable as a penal offence with penalties which should be really adequate and strictly enforced. The Committee trusts that the necessary legislation will be enacted.
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> 2. *Local public works.* In previous observations, the Committee noted that, notwithstanding the repeal in 1962 of provisions for the exaction of forced labour for public works contained in the Revised Laws and Administrative Regulations for Governing the Hinterland, 1949, continued use had been made of such powers for carrying out local development works through self-help projects. The Committee noted that according to the annual report of the Ministry of Local Government, Rural Development and Urban Reconstruction for 1981, 75 per cent of rural development projects visited during a

nationwide inspection tour were funded through self-help and it requested the Government to provide a copy of the report on the inspection tour and any similar report.

The Committee hopes that the legislative provisions to be adopted with a view to giving effect to the requirements of Article 25 of the Convention will ensure that any exaction of labour in connection with local development works can be the subject of effective penalties.

3. *Enforcement of the prohibition of forced or compulsory labour.* In previous observations, the Committee pointed out that, under *Articles 24 and 25 of the Convention*, the Government was under an obligation to ensure the strict observance of the prohibition of forced or compulsory labour. It stressed the importance, in this connection, of measures to ensure adequate labour inspection, particularly in non-concessionary agricultural undertakings and in relation to Chiefs. The Committee hopes the next report will contain further information in this respect.

The Committee hopes that the Government will make every effort to take the necessary action.

Madagascar (ratification: 1960)

1. *Article 2, paragraph 2(c), of the Convention.* In previous comments, the Committee referred to the provisions of Decree No. 59-121 of 27 October 1959 (amended by a Decree of 6 March 1963), to establish the general organization of the prison services, under which prison labour may be hired to private undertakings and prison work may be imposed on persons detained pending trial. The Committee noted the Government's statements that, following comments by the Committee of Experts, the hiring of prison labour to private individuals has been abolished by repeated circulars and that persons awaiting trial are no longer forced to perform prison work. The Committee also noted that the revision of Decree No. 59-121 was under study.

In its latest report, the Government indicates that Decree No. 59-121 has still not been amended. The Committee again expresses the hope that this text will be amended in the near future in order to bring the law into conformity with the Convention on this point.

2. In earlier comments, the Committee referred to Act No. 68-018 of 6 December 1968 and to Ordinance No. 78-002 of 16 February 1978 respecting the general principles of national service, which define national service as the compulsory participation of all Malagasies in national defence and in the economic and social development of the country. It also noted the provisions of section 8 of Ordinance No. 78-003 of 6 March 1978 establishing the conditions of service of staff liable to national service obligations on the active and reserve lists, under which members of the armed forces performing their service outside the armed forces are referred to by their functions (teachers, doctors, telegraphists, etc.), followed by the term "national service". Lastly, it noted the various texts that either referred to the powers of the military committee for developments with regard to work in support of the local communities, or laid down the procedure for incorporation in national service of young school-leavers and recruits of a particular age group, or changed the name of the units responsible for development (development forces).

The Committee notes that under the first section of Decree No. 92-353 communicated by the Government, young men and women of Malagasy nationality who are holders of a baccalaureate qualification may perform national service "outside the people's armed forces" on a voluntary basis, under certain conditions, including that of "agreeing to serve in the post designated by the military commander". The Committee notes that the voluntary nature act relates not to performance of the national service but to the sector of assignment (outside the people's armed forces).

The Committee recalled once again that under the provisions of Act No. 68-018 and Ordinance No. 78-002, national service is defined as the *compulsory* participation, imposed for a period of up to two years, of part of the population, namely young Malagasies from 18 to 35 years old, *under the threat of various penalties and sanctions*, in the activities of national defence and the economic and social development of the country.

In this regard, the Committee observes that under *Article 2, paragraph 2(a)*, of the Convention, compulsory military service is excluded from the scope of the Convention only if it is confined to *work of a purely military character*. The Committee recalled in paragraphs 25 and 49 of its General Survey of 1979 on the Abolition of Forced Labour that when adopting the Recommendation (No. 136) on the Special Youth Schemes Recommendation, 1970, the International Labour Conference rejected the proposal to permit participation by young people in national development schemes in the framework of compulsory military service or as an alternative to such service, on the grounds that it was incompatible with the Conventions on forced labour.

The Committee draws the Government's attention to paragraphs 27 to 29, 31-32 and 56 to 61 of the same penal survey in which it set forth the clarification made by the Conference deliberations on the 1970 Recommendation to the subject of the relationship between the Conventions on forced labour and certain compulsory programmes involving participation by young people in activities to promote the economic and social development of the country.

The Committee requests the Government to take the necessary measures to ensure full application of the Convention.

Myanmar (ratification: 1955)

Compulsory porterage and imposition of labour for public works

1. Further to the discussion which took place at the Conference Committee in 1995 on the observance of the Convention by Myanmar, the Committee has taken note of the Government's report.

2. In comments made for a considerable number of years, the Committee has noted that section 8(1)(g), (n) and (o), read together with sections 11(d) and 12 of the Village Act (1908) and section 7(1)(m), read together with sections 9(b) and 9A of the Towns Act (1907), provide for the exaction of labour and services, including porterage service, under the menace of a penalty from residents who have not offered themselves voluntarily. In 1991, the Committee noted observations submitted by the International Confederation of Free Trade Unions (ICFTU) alleging that the practice of compulsory portering was widespread in the country.

3. In 1993, the Committee also noted in the report by a Special Rapporteur on the situation of human rights in Myanmar submitted to the United Nations Commission on Human Rights at its 49th Session, February-March 1993 (document E/CN.4/1993/37 of 17 February 1993) the testimony of persons taken to provide labour in the construction of railroads (Aungban-Loikaw railroad) and of roads or the clearing of jungle areas for the military. Further to the Government's indications that this labour was provided voluntarily following a tradition which goes back thousands of years, the Committee pointed out in its last observation that the provisions of the Village Act and the Towns

Act mentioned in point 2 above confer sweeping powers on every headman to requisition residents to assist him in the execution of his public duties. Where such powers exist, it is difficult to establish that residents performing work at the request of the authorities are doing so voluntarily.

4. In 1993, the ICFTU made a representation under article 24 of the ILO Constitution alleging non-observance of the Convention and, in February 1995, the Committee noted the conclusions and recommendations made by the Committee set up by the Governing Body to examine this representation, which were adopted by the Governing Body at its 261st Session (November 1994). The Committee set up by the Governing Body observed that the exaction of labour and services under the Village Act and the Towns Act is contrary to the Convention, ratified by Myanmar in 1955, and the Governing Body urged the Government to take the necessary steps:

(i) to ensure that the relevant legislative texts, in particular the Village Act and the Towns Act, are brought into line with the Convention; and

(ii) to ensure that the formal repeal of the powers to impose compulsory labour be followed up in practice and that those resorting to coercion in the recruitment of labour be punished.

5. The Committee further noted the Government's statement at the 261st Session of the Governing Body, indicating that Myanmar was undergoing a major transformation in changing from one political and economic system to another and that a basic step in this process was the amendment of laws which no longer pertain to current circumstances and situations. At the Conference Committee in June 1995, the Government representative likewise indicated that in compliance with the request from the Governing Body, "to ensure that the relevant legislative texts, in particular the Village Act and the Towns Act, are brought in line with the Convention" and "to ensure that formal repeal of powers to impose compulsory labour be followed up in practice and that those resorting to coercion in the recruitment of labour be punished", the Government had started the process of amending these laws.

6. In a special paragraph of its report, the Conference Committee in 1995 called upon the Government to urgently repeal the offensive legal provisions under the Village Act and the Towns Act to bring them into line with the letter and spirit of Convention No. 29, to terminate forced labour practices on the ground, to provide for and award exemplary penalties against those exacting forced labour, and to furnish a detailed report on legislative and practical measures adopted to fall in line with Convention No. 29.

7. The Committee notes that no such details have been provided by the Government. In its summary report, received 31 October 1995, the Government, referring to the provisions of Article 2(2)(b) and (d) of the Convention, concerning "normal civic obligations" and "work or service exacted in cases of emergencies", once more states that in Myanmar it is an accepted concept that voluntary contribution of labour for community development such as construction of pagodas, monasteries, schools, bridges, roads, railroads, etc, is a kind of donation and meritorious which is good not only for the present life but also for the future life as well. So, in the Government's view, the term "forced labour" is not applicable to the provisions of section 11(d) of the Village Act and section 9 of the Towns Act. Besides, the Village Act and the Towns Act, administered by the General Administration Department, "are under review to be in accordance with the present situation in Myanmar".

8. The Committee notes these indications with concern. Recalling that in its reports on the application of the Convention, the Government has indicated ever since 1967 that

the authorities no longer exercised the powers vested in them under the provisions in question of the Village Act and Towns Act, which were established under colonial rule, did not meet the standard and the needs of the country's new social order and were obsolete and soon to be repealed, the Committee in its previous observation expressed the hope that this would now be done and that the Government would supply full details on the steps taken both as regards the formal repeal of the powers to impose compulsory labour and the necessary follow-up action, with strict punishment of those resorting to coercion in the recruitment of labour. As pointed out by the Governing Body Committee, this follow-up appears all the more important since the blurring of the distinction between compulsory and voluntary labour, recurrent through the Government's statements to the Committee, is all the more likely to occur also in actual recruitment by local or military officials. The Government's latest report persists in blurring the distinction between compulsory and voluntary labour and contains no indication whatsoever that concrete measures have been taken to abolish the powers to impose compulsory labour either in law or in practice.

[The Government is asked to supply full particulars to the Conference at its 83rd Session.]

Netherlands (ratification: 1933)

1. *Article 2(2)(a) of the Convention.* The Committee has taken note of a communication from the Netherlands Trade Union Confederation (FNV) dated 18 August 1995 alleging use of conscripts for non-military activities. Copy of this communication has been forwarded by the ILO on 29 August 1995 to the Government.

In the absence of a comment from the Government, the Committee hopes that the Government will soon submit its observations on the allegations.

2. With regard to section 6 of the Extraordinary (Employment Relations) Decree, 1945, the Committee looks forward to the Government's answer to the Committee's observation made in 1994 under the Convention.

Pakistan (ratification: 1957)

1. The Committee notes the Government's reports covering the periods from 1 July 1992 to 30 June 1993 and from 1 July 1993 to 30 June 1994, as well as supplementary material received in November 1995 from the Government "on the latest development in tackling the problem of child/bonded labour".

The Committee also has noted the observations on the application of the Convention made by the All Pakistan Federation of Trade Unions in a communication dated 13 October 1994, which was transmitted for comments to the Government on 11 November 1994. The Government has not replied to these observations.

I. Child labour under the Forced Labour Convention

2. In its previous observations, the Committee referred in some detail to the problems of bonded labour and of children in bondage. In the supplementary material received in November 1995, the Government, addressing the extent of the problem of bonded child labour, indicates that: "There is a large difference between child labour and bonded child labour. The problem of child labour does exist in Pakistan but to a limited extent. This problem is both visible as well as invisible. The visible child labour is present mostly in small industrial units, workshops, restaurants, etc. The invisible child labour possibly exists as family helpers in home-based industries and agriculture sector. The cases of bonded child labour also are not visible."

3. The Committee takes due note of these indications. Before considering further the question of visibility as a key issue in dealing with the problem of bonded labour, the Committee wishes to dwell, from a more conceptual angle, on the difference between child labour and bonded child labour for the purposes of the Convention.

4. *Forced labour, bonded labour, children in bondage.* Under the Convention, the Government has undertaken to suppress the use of forced or compulsory labour, which is defined in Article 2(1) as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. Bonded labour, as defined in section 2(e) of the Bonded Labour System (Abolition) Act, No. III of 1992 of Pakistan, is but one form of forced labour coming under Article 2(1) of the Convention. Bonded child labour is an intrinsic and typical part of the bonded labour system, as recognized in section 2(e) of the Act, which refers to labour imposed on any family member of, or dependant on, the ""debtor" or presumed debtor. Bonded labour, including children in bondage, will be further considered in Part II below.

5. *Child labour other than bonded labour.* For forms of child labour other than bonded labour, the question arises, with regard to Article 2(1) of the Convention, whether, and if so, under what circumstances a minor can be considered to have offered himself "voluntarily" for work or service, whether or when the consent of the parents is needed or even sufficient in this regard, and what are the sanctions for refusal. In this connection, it should also be borne in mind that, in regulating recourse to compulsory labour during a transitional period following the entry into force of the Convention (1 May 1932), the Conference specifically excluded in Article 11 the call-up of any persons below the age of 18.

6. In its reports on the application of the Convention and the supplementary material on the latest developments, the Government has forwarded information on a range of activities and programmes related to child labour, including the signing of a Memorandum of Understanding with the ILO in June 1994 to eliminate child labour from the country and the launching of 14 IPEC (International Programme for the Elimination of Child Labour) action programmes; the setting up of a "National Committee on the Rights of the Child" and "Special Child Labour Cells" in the Ministry of Labour, Manpower and Overseas Pakistanis and in the Labour Departments of the provincial governments; and the conducting of nearly 3,000 inspections during the past year, resulting in prosecutions in about 1,000 cases, under the Employment of Children Act, 1991, which prohibits the employment of persons who have not completed 14 years of age in a limited range of occupations (related to railways, ports and the sale of fireworks) and in 14 listed work processes (including manufacturing processes using toxic metals and substances), except in family undertakings or government-recognized schools. The Act is enforceable by imprisonment or fine. The Committee observes that the Factories Act 1934, as amended 1977, had already prohibited more generally the work of children who have not completed their 14th year in any factory where ten or more persons are working or any mine, but no enforcement data have been given for that Act.

7. The Committee notes from the "Consolidated position of implementation of the Employment of Children Act, 1991, and the Bonded Labour System (Abolition) Act, 1992" received from the Government in November 1995, that under the Employment of Children Act, 1991, in Punjab 1,351 inspections led to 699 prosecutions with, provisionally, 48 convictions; in Sindh, 407 inspections were followed by 47 prosecutions with no convictions so far reported; in the North-West Frontier Province, through 1,576 inspections 270 irregularities were detected, 16 cases were decided; in

Baluchistan, measures concerning 1,921 children below 14 years working in different establishments are about to be taken. The Committee appreciates the Government's efforts to remove children from a range of the more dangerous or harmful occupations. But in the absence of further details about the cases referred to by the Government, which were raised under the Employment of Children Act, 1991, the Committee is not in a position to evaluate their bearing on the implementation of the Forced Labour Convention, nor what remains to be done to protect children more generally from the exploitation of their labour. It would, however, clearly appear to the Committee that efforts so far undertaken in practice have not come to grips with the problem of children in bondage, nor indeed with bonded labour as such.

II. Bonded labour

8. *Magnitude of the problem.* In earlier comments, the Committee noted allegations brought before the United Nations that 20 million persons worked as bonded labourers, 7 million of which were children. The Committee noted the Government's indication that these figures were unrealistic, an appreciation shared by the All Pakistan Federation of Trade Unions. While comparing the alleged numbers with statistical data concerning the labour force and total population of Pakistan, the Government has not put forth any figures of its own concerning the numbers of bonded labourers. However, the Committee notes from the country paper submitted by the Government to the Asian Regional Seminar on Children in Bondage (Islamabad, November 1992) that in Pakistan child labour mostly persists because of poverty, lack of public awareness, lack of education facilities and parents' debt bondage. In areas where parents (being peasants/labourers) are forced to provide labour services to landlords/employers, their children are frequently trapped in debt bondage. Often, the parents are given a loan to meet some urgent needs. The debtor has then to repay by working. In practice, the debt does not decrease; it climbs even upwards. The whole family becomes permanently enslaved and the money-lender claims repayment from succeeding generations. Thus children are usually pledged as workers in part payment of debt. Children can also be enslaved on their own. Parents may send them to work in the houses of a landlord or moneylender. These children may stay for many years, not knowing how long they must work, or even the size of the debt they are paying off. The Committee further notes the observation by the All Pakistan Federation of Trade Unions in its communication dated 13 October 1994 that persons are subjected to forced labour under the bonded labour system in rural and less developed areas by the feudal lords but also in some coal mines and brick kilns.

9. *Fact-finding and law enforcement practice.* In its reports for 1992-94 on the application of the Convention, the Government indicates that only one case of bonded labour was found, in the Punjab Province, and that the management was stated to have been prosecuted. In the "Consolidated position of the implementation of the Employment of Children Act, 1991, and the Bonded Labour System (Abolition) Act, 1992", received from the Government in November 1995 and already referred to in paragraph 7 above, the numbers of inspections, prosecutions and convictions given for the Bonded Labour System (Abolition) Act, 1992, are all nil for each of the four provinces. It is stated by way of explanation that reports furnished by district magistrates from Baluchistan show no instance of bonded labour in the province and that vigilance committees headed by the deputy commissioners in the districts of NWFP and Sindh have detected no case of bonded labour; for Punjab, it is explained that in accordance with section 15 of the Act, vigilance committees have been formed in almost all the districts of Punjab, that the Act mainly envisages an advisory and supervisory role for the vigilance committees, and

"that it is a matter of general observation that aggrieved persons do not approach the vigilance committees but instead they prefer to invoke the jurisdiction of the High Court for prompt relief".

10. *Visibility and perception of the problem.* In its statement noted in paragraph 2 above, the Government, assessing the extent of the problem of bonded child labour, has pointed out that the cases of bonded child labour are not visible. Lack of visibility or of perception appears to be more generally a difficulty in dealing with the problem of bonded labour, a difficulty not so far overcome by established machinery except in the singular case where bonded labourers were able to organize and on their own initiative invoke the jurisdiction of the High Court.

11. *The role of district magistrates and vigilance committees.* The Committee recalls that under section 9 of the Bonded Labour System (Abolition) Act, 1992, the provincial government may confer such powers and impose such duties on a district magistrate as may be necessary to ensure that the provisions of this Act are properly carried out; furthermore, under section 15 of the Act, vigilance committees to be set up at the district level are not only to advise the district administration on matters relating to the effective implementation of the law, but also to ensure its implementation in a proper manner and to provide the bonded labourers such assistance as may be necessary to achieve the objectives of the law. It would not appear that this has so far been done.

12. *Trade union observations.* The Committee recalls the observations on the application of the Convention made by the All Pakistan Federation of United Trade Unions in a communication dated 31 December 1993 which was transmitted to the Government for comments on 21 January 1994. In its observations, the Federation, referring to the composition of the vigilance committees, stated that the feudals of the country had a strong hold over the administrative machinery, which was always used for the protection of the bonded labour system, and whenever any effort was made to eliminate this system, it was strongly resisted. The Federation requested that representation of the trade unions — not so far envisaged by the Act — be made compulsory in the vigilance committees. The Committee notes that the Government has not replied to these observations.

13. *Action to be taken.* The Committee hopes that the necessary measures will now be taken to ensure the effective enforcement of the Bonded Labour System (Abolition) Act, 1992, as regards the identification, release and rehabilitation of bonded labourers as well as the strict punishment of offenders, including, as provided for under section 14 of the Act and section 107 of the Penal Code, the punishment of any public officer or other person who, by any act, illegal omission or wilful concealment of a material fact which he is bound to disclose, voluntarily aids or procures an offence to be committed under the Act. The Committee requests the Government to supply full details on the action taken to this effect, on any measures taken or envisaged to include representatives of trade unions and employers' associations in the machinery, as well as representatives of the National Human Rights Commission and any other non-governmental organizations engaged in the task of assisting the bonded labourers, and on the results obtained, including the numbers of bonded labourers identified, freed and rehabilitated, and details concerning the prosecution, conviction and punishment of offenders.

III. Restrictions on termination of employment

14. The Committee has been commenting for a considerable number of years on the provisions of the Pakistan Essential Services (Maintenance) Act, 1952, rendering punishable with imprisonment of up to one year a person in employment of whatever

nature under the federal Government who terminates his employment without the consent of his employer, notwithstanding any express or implied term in his contract providing for termination with notice. These provisions may be extended to other classes of employment (sections 2, 3(1)(b) and explanation 2, section 7(1); section 3). Similar provisions are contained in the West Pakistan Essential Services (Maintenance) Act, 1958, as in force in Baluchistan and the North-West Frontier Province, and in the corresponding Punjab and Sindh Essential Services (Maintenance) Acts of 1958.

15. The Government has repeatedly indicated its intention to amend the provisions of the Pakistan Essential Services (Maintenance) Act so that an employee may terminate his employment in accordance with the express or implied terms of his contract. In its latest report, the Government states that the Act is made applicable temporarily to essential employments only for the purpose of securing the defence or security of the country and for the maintenance of supplies and services, essential to the life of the community. While the right of association in such cases remains intact, only strikes and lockouts are prohibited because the Government feels that if essential services are disrupted, the life of the community as a whole will be in danger. However, in all circumstances, the workers' right to resort to "an appropriate forum (NIRC) for redressal of their grievances" is available to them. The Government adds that the list of essential employments covered under the law is minimum. The Government has adopted the policy of constant review and check of this list. It has also deliberated to amend the provisions of this law in order to enable an employee to terminate his employment in accordance with expressed or implied terms of employment, but reiterates that the application of this law to some industries is inevitable in view of the sensitivity of their employments. Moreover, this has been done because national interest demands suitable checks and balances in these cases. The Government nevertheless has decided that the law in question should not in future be extended to any industry unless it is fully warranted and justified. However, the possibility for employees covered by the Essential Services (Maintenance) Act, 1952, to unilaterally terminate their employment and the exclusion of some of the establishments from the application of the Act have been considered by the tripartite Task Force on Labour, which submitted its report to the Cabinet in the light of the views expressed by the workers' and employers' groups. The Cabinet constituted a Cabinet Committee to further examine the report, and the ILO will be informed of developments in the matter.

16. The Committee has taken due note of these various explanations. As regards the Government's repeated statement that the Act is made applicable temporarily to essential employments only, the Committee is bound to point out once more that the Essential Services Acts apply *permanently* to all employment of whatever nature under the federal Government, and to all employment under a provincial government or any agency set up by it or a local authority or any service relating to transport or civil defence; *in addition*, they may be applied, by notification of a provincial government, to employment in any educational autonomous body, and by notification of the federal Government for specified and renewable periods of six months each to other employment or classes of employment which the Government considers essential.

17. As regards the Government's indication that the right of association remains intact and only strikes and lockouts are prohibited, the Committee, referring also to point 4 of its observation on Pakistan under the Abolition of Forced Labour Convention, 1957 (No. 105), must once again point out that even in truly essential services, whose interruption might endanger the life, personal safety or health of persons, the freedom of individual workers to terminate their employment by giving notice of reasonable

length remains an inalienable right; under the federal and provincial Essential Services Acts, this right is being denied to a far wider group of employees.

18. As regards the Government's indication that the possibility of restoring the right of employees covered by the Essential Services (Maintenance) Act, 1952, to unilaterally terminate their employment is being further examined by a Cabinet Committee on the basis of a report by the tripartite Task Force on Labour, the Committee also notes the observation by the All Pakistan Federation of Trade Unions, in its communication dated 13 October 1994, that these laws are required to be abolished in the light of Conventions Nos. 105 and 29, ratified by Pakistan. Recalling that the Essential Services Acts have been the subject of comments for a great number of years under the Convention, ratified by Pakistan in 1957, and that the Government had assured the Conference Committee in 1989 that the Government had already decided to meet the requirements of the Convention by amending the 1952 Act, and that the proposed amendment was to be submitted to the National Assembly, the Committee trusts that this will now be done, that similar action will be taken for the corresponding provincial Acts, and that the Government will report on the provisions adopted to this end.

Singapore (ratification: 1965)

The Committee notes the Government's report. The Committee previously noted that the Destitute Persons Act, 1989, repeated without change certain provisions of the Destitute Persons Act, 1965, that had been the subject of comments for several years. Under sections 3 and 16 of the new Act, any destitute person may be required, subject to penal sanctions, to reside in a welfare home, and under section 13 of the same Act any person resident in such a home may be required to engage in any suitable work for which the medical officer of the home certifies him to be capable, either with a view to fitting him for an employment outside the welfare home or with a view to contributing to his maintenance in the welfare home.

The Committee notes the indication in the Government's report that the Destitute Persons Act, 1989, is not a penal legislation and that it is a social legislation providing for the shelter, care and protection of destitute persons who have no means of subsistence or place of residence. The Committee also notes the Government's repeated indication that the residents of the welfare home are encouraged to participate in the day-release scheme, sheltered workshops and the general maintenance of the home, despite the provision in the Act (section 13) which mentions a compulsory participation of the home residents in various activities.

The Government adds that as a form of encouragement residents participating in the home maintenance activities are given an allowance. The residents can spend this allowance. Residents placed to work outside the home under the day-release scheme are paid by their employers. They enjoy the same salary and conditions of employment as any worker engaged in the open market. Those who are able to cope with life in the community are eventually discharged after a trial period.

The Committee takes due note of these indications. It recalls its comment made in 1976 in which it noted with interest that Rule 23 of the Destitute Persons (Welfare Homes) Rules had been amended to conform with the requirements of the Convention. Compliance with the Convention requires the admittance of destitute persons to a welfare home and their stay therein (if it implies an obligation to work) to be subject to their consent and/or any work in such homes to be done voluntarily both in law and in practice.

The Committee hopes that measures will also be taken to bring the Destitute Persons Act, 1989, into conformity with the Convention.

Sri Lanka (ratification: 1950)

The Committee notes the Government's report received on 30 March 1994.

Child exploitation

1. In previous comments the Committee referred to allegations of child labour exploitation in domestic service, shops, private coaches, tourist industry and fishing camps (Wadiyas). The Committee noted that article 27, paragraph 13, of the Constitution provides that the State shall promote with special care the interests of children and youth so as to ensure their full physical, mental, moral, religious and social development, to protect them from exploitation and discrimination and that a number of laws have been enacted to protect children. The Committee noted, however, that it was alleged that protective laws were not adequately respected and enforced and that a reason for the abuse of child labour was the lack of deterrent punishment. The Committee noted the Government's information in its report for the period ending 30 June 1993 and the survey on child employment in the passenger transport annexed to the report. The survey, as it indicates in page 2, was conducted upon receiving allegations made by the press and others to the effect that working children are exploited by private bus owners. The Committee notes that the survey found several instances of exploitative working conditions of child workers. The Committee notes the Government's indication in its report that authorities in charge of child labour have felt a need for introducing new laws with regard to child labour and child abuse. It further notes the Government's indication that action is now being taken to introduce new laws and to amend the prevailing laws, to impose severe penalties for the violation of the laws with regard to child labour, child abuse and other matters which come under the purview of the monitoring committee set up by the Children's Charter. The Government further indicates that the Adoption of Children's Ordinance, 1941, could be amended with a view to avoiding child exploitation under the guise of foster care, such as requiring also relatives to register for custody of children under 14 years of age or extending legal responsibilities of a registered guardian to cover also the duty of physical care, protection from violence and education.

The Committee hopes that the Government will supply further information on the progress achieved in its efforts to improve the legislative support to combat child exploitation, as well as to ensure that exaction of forced labour is punished as a penal offence and that the penalties imposed by law are really adequate and strictly enforced.

2. The Committee notes the Government's indication in its report that the Department of Labour and the Department of Probation and Child-Care Services are the existing machineries for supervision of laws regarding children. Labour offices of the Department of Labour carry out their inspection under the provisions of the Employment of Women, Young Persons and Children Act, No. 47 of 1956, and action is being taken to empower the probation officers of the Department of Probation and Child-Care Services to carry out inspections under the same Act. In view of the comments made by the Jathika Sevaka Sangamaya (National Employees' Union), noted by the Committee in its last observation, to the effect that the non-application of the Convention is mainly due to the shortage of labour inspectors, the Committee hopes that measures will soon be taken to strengthen the labour inspectorate to cover the exploitation of labour, particularly child exploitation.

3. The Committee notes the Government's indication in its report that a large-scale campaign was launched to combat child labour on 5 November 1992 and, as a result,

the Department of Probation and Child-Care Services received 1,290 complaints under which 50 persons were investigated and others are under investigation. The Committee hopes that the Government will supply information on the outcome of the continuation of this campaign and particulars of the persons investigated, the penalties imposed and the number of children rescued and rehabilitated.

4. The Committee in its previous observation referred to a series of sources, such as the report on child labour in Sri Lanka, published by the ILO in 1993, and the report on the Asian Regional Seminar on Children in Bondage, 23-26 November 1993. It noted various allegations made with respect to bonded child labour and exploitation of child domestic servants. As domestic workers are usually not covered by labour inspection, the Committee hopes that the Government will supply information more particularly on measures taken to protect domestic workers from forced labour and to combat child servitude.

Emergency regulations

5. In previous comments the Committee noted that the state of emergency proclaimed on 20 June 1989 under Part II of the Public Security Ordinance (Cap. 40), 1947, had been renewed monthly since that date and remained in force. The Committee noted that under section 10 of the Emergency (Miscellaneous Provisions and Powers) Regulations, No. 1 of 1989, also still in force, the President might order to require any person to do work or render any service in aid, or in connection with, the national security or the maintenance of essential services. Contravention or failure to comply with the requisition order is an offence and punishable, in addition to any other penalty imposed by the court, by forfeiture of all property. The list of essential services contained in the schedule to Regulations No. 1 of 1989, such as modified subsequently, comprises, inter alia, services, work or labour necessary or to be done in connection with the export of commodities, garments and other export products.

The Committee notes with interest that the Emergency (Maintenance of Exports) Regulations, No. 1 of 1992, which had punished persons intimidating or disrupting manufactures or processes for export was repealed by the Regulation made by the President under section 5 of the Public Security Ordinance (Cap. 40) on 29 September 1992 published in *Gazette Extraordinary* No. 734/8.

However, in light of the continuation of the validity of the Public Security Ordinance as a whole and recalling early comments made by the Ceylon Workers' Congress, alleging large powers given under the Ordinance to officials to require any person to do any work or render any personal services under the menace of penalties, the Committee wishes, once again, to recall that recourse to compulsory labour under emergency powers is to be limited to circumstances which endanger the existence or well being of the whole or part of the population. It should be clear from the legislation itself that the power to exact labour is limited to what is strictly required to cope with such circumstances. The Committee again requests the Government to provide information on measures taken or envisaged to this effect.

6. In previous comments the Committee referred to the Compulsory Public Service Act No. 70 of 1961 imposing on graduates an obligation to perform compulsory public service for up to five years under penalty of a fine for every day's failure to discharge this duty (sections 3(1), 4(1)(c) and 4(5)). The Government, in its latest report, refers to its previous reports in which it had indicated that the Act was not implemented in respect of medical officers and that no enforcement of the provisions of the Act had come to the Government's notice. The Committee noted the Government's indication that there were no reported instances of prosecutions against any graduates under this law.

The Committee again expresses the hope that the Government will indicate measures contemplated or adopted to amend or repeal the Compulsory Public Service Act.

Zaire (ratification: 1960)

The Committee notes with regret that no report has been received from the Government. It must, therefore, repeat its previous observation on the following points:

1. In comments it has been making for many years, the Committee has referred to the following texts:

- the provisions of Act No. 76-011 of 21 May 1976 concerning national development efforts, which require, under penalty of penal sanctions, every able-bodied adult person who is a national of Zaire and who is not already considered to be making his contribution by reason of his employment (political representatives, wage earners and apprentices, public servants, tradesmen, members of the liberal professions, the clergy, students and pupils), to carry out agricultural work and other development work laid down by the Government. It also noted the measures to implement the Act laid down in Departmental Order No. 00748/BCE/AGRI/76 of 11 June 1976;
- sections 18 to 21 of Legislative Ordinance No. 71-087 of 14 September 1971 on minimum personal contributions, which provides for the imprisonment with compulsory labour of tax defaulters by decision of the chief of the local community or the area commissioner, as a means of recovering the minimum personal contribution.

For many years the Government has referred to draft amendments to the provisions in question. The Committee again expresses the hope that the Government will indicate the measures taken to bring these provisions into conformity with the Convention and that it will provide a copy of the texts adopted for this purpose.

2. The Government also stated its intention of repealing Ordinance No. 15/APAJ of 20 January 1938 respecting the prison system in native districts, which allows work to be exacted from detainees who have not been sentenced. The Government stated that this text had fallen into disuse and was contrary to Ordinance No. 344 of 17 September 1965 governing prison labour. The Committee noted the indications in the Government's report for the period ending 30 June 1992 that, following a critical analysis of the laws and regulations concerning the organization and operation of the judicial system, the Supreme National Conference has decided to reform the penitentiary system and repeal certain provisions of the law to ensure that detainees are integrated into society and contribute to the community. Detainees will maintain all the rights to which free men are entitled except the right to come and go freely.

The Committee again expresses the hope that the provisions to be adopted will be consistent with those of *Article 2, paragraph 2(c), of the Convention* and that the Government will provide information on any developments in this regard.

3. In its previous comments, the Committee stressed the need to include a provision in the national legislation establishing penal sanctions for persons who unlawfully exact forced or compulsory labour, in accordance with *Article 25 of the Convention*. The Committee noted the Government's indication that it was planned to insert such a provision into the draft of the revised Labour Code.

In its report for the period ending June 1992 the Government indicated that, in view of the changes in labour relations and personal freedoms, the draft of the revised Code had to be updated. The Committee trusts again that the final draft will prohibit forced or compulsory labour under penalty of really effective penal sanctions and that the Government will provide a copy of it.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Antigua and Barbuda, Barbados, Burundi, Egypt, Guinea, Guinea-Bissau, Guyana, Indonesia, Liberia, Pakistan, Papua New Guinea, Saudi Arabia, Solomon Islands, Sri Lanka, Uganda, Zaire.*

Convention No. 30: Hours of Work (Commerce and Offices), 1930

Requests regarding certain points are being addressed directly to the following States: *Bulgaria, Ghana.*

Convention No. 32: Protection against Accidents (Dockers) (Revised), 1932

Argentina (ratification: 1950)

The Committee notes the communication of the Union of United Argentine Dock Workers. It is alleged in this communication that in terminals where loading and unloading operations take place, lorries, containers, etc. circulate in very cramped operating space which is crowded with containers resulting in a high number of accidents, mutilations and possible death for workers. In the absence of a reply from the Government, the Committee requests the Government to indicate the measures taken or envisaged for the purpose of ensuring effective application of the Convention for protection of workers against accidents in the ports of Argentina.

With regard to some provisions of the Convention, the Committee refers to the comments made in a direct request to the Government in 1993.

Italy (ratification: 1933)

With reference to its previous comments, the Committee notes with interest the adoption of Act No. 84 of 28 January 1994 to reorganize the legislation respecting ports. Under the terms of section 24(3) of the above Act, the Government is empowered to issue, within six months of the coming into force of the above Act, regulations containing provisions respecting occupational safety and health in port work. In view of the fact that the protection of dockers against accidents is governed by a great diversity of local regulations in the various ports which do not always give effect to the Convention, the Committee requests the Government to supply a copy of the regulations giving full effect to the Convention throughout the national territory under the terms of section 24(3) of the above Act.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Croatia, Italy.*

Convention No. 33: Minimum Age (Non-Industrial Employment), 1932

A request regarding certain points is being addressed directly to the *Central African Republic.*

Convention No. 34: Fee-Charging Employment Agencies, 1933

Argentina (ratification: 1950)

With reference to its earlier comments, the Committee notes the information supplied in the Government's report for the period ending 30 June 1994, and in particular, the Government's reply to the observations made by the Congress of Argentinean Workers (CTA) alleging the non-compliance of the national legislation (National Employment Act No. 24.013 of 1991) with provisions of the Convention. It also notes the Government's statement to the effect that it is prepared to ratify Convention No. 96, with the acceptance of Part III (Regulation of fee-charging employment agencies), and that a process of adaptation of the national legislation is going on. The Committee further notes Decree No. 342 of 24 February 1992 laying down regulations governing the activities of temporary employment enterprises.

The Government indicates that the temporary employment enterprises regulated by sections 77 to 80 of the above-mentioned Act No. 24.013 and by Decree No. 342 are fee-charging employment agencies conducted with a view to profit. The Committee recalls in this connection that, under the provisions of *Articles 2 and 3 of Convention No. 34*, fee-charging employment agencies conducted with a view to profit should have been abolished within three years from the coming into force of this Convention for Argentina, and the establishment of new fee-charging employment agencies is not allowed after the expiration of that period. Taking into account the Government's intention expressed in the report to accept the more flexible provisions of Part III of Convention No. 96, the Committee hopes that the ratification of this Convention will take place in the near future, which will involve *ipso jure* the immediate denunciation of Convention No. 34. The Committee therefore asks the Government to keep the ILO informed of any progress made in this regard.

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In addition, a request regarding certain points is being addressed directly to *Bulgaria*.

Convention No. 35: Old-Age Insurance (Industry, etc.), 1933

Peru (ratification: 1959)

With reference to its 1994 observation, the Committee notes the written and oral information provided by the Government to the Conference Committee (81st Session, June 1994) and the ensuing discussion.

1. *Article 4 of the Convention* (guarantee of an old-age pension once the accumulated capital is exhausted). The Committee had noted that when an insured worker selects the method of "programmed retirement" he loses all right to an old-age pension when the capital runs out. The Government states in reply that, under the terms of Decision No. 141-93-EF/SAFP, the "programmed retirement" method can be revoked, so that the insured person retains the possibility of transferring to the method of the personal or family lifetime pension annuity, or the method of the temporary annuity with a deferred lifetime annuity, the choice in respect of which was previously irrevocable. The Committee notes this information. However, the Committee draws attention to the fact that those who opt exclusively for the "programmed retirement" pension method lose all entitlement to a pension when the accumulated capital in their individual account is exhausted. It trusts that the Government will provide information

in its next report on the measures that have been adopted to ensure that all insured persons, and particularly those who have opted for the "programmed retirement" method, are guaranteed an old-age pension that is provided for the whole period of the contingency.

2. *Article 9, paragraph 1* (financial contribution of employers to the resources of the insurance scheme). The Committee requested the Government to indicate the measures which had been adopted or were envisaged to supplement Legislative Decree No. 25897 of 27 November 1992 so that employers contribute to the financial resources of the insurance scheme for wage-earners. The Government states in this respect that the private pensions system can receive the financial participation of employers due to the fact that for a worker to join the system there has to be an automatic increase in remuneration of the order of 13.54 per cent to cover membership of the private system for the administration of pension funds (SPP). The Committee notes that the above increase in remuneration for workers is provided once only at the time when the worker joins the SPP. Moreover, this increase, envisaged under section 8 of Legislative Decree No. 25897, was repealed by the recent amendments made by Act No. 26504, of 8 July 1995.

The Government also refers to Article 9, paragraph 3, of the Convention, which provides that contributions from employers may be dispensed with under laws or regulations concerning schemes of national insurance not restricted in scope to employed persons. The Committee considers it useful to recall that this flexibility clause was included with a view to taking into account the situation of certain national insurance schemes which provide *compulsory coverage* for all the active population. In view of the fact that affiliation to the SPP by non-wage-earners is only optional, employers should contribute to the financial resources of the insurance scheme, in accordance with the requirements contained in Article 9, paragraph 1, of the Convention.

The Committee is therefore bound to urge the Government to take the necessary measures to ensure that employers also contribute to the financial resources of the insurance scheme for wage-earners in accordance with this provision of the Convention.

3. *Article 9, paragraph 4* (financial participation by the public authorities). The Government states that section 9 of Legislative Decree No. 25897 provides for vouchers to be issued by the Peruvian Social Security Institute (IPSS) recognizing the corresponding amount of the entitlements of the worker, taking into account the months of contribution to that institution up to the coming into force of the Act (that is, up to 6 December 1992). It adds that regulations have been issued establishing guidelines on the emission of vouchers. The Committee notes that the above vouchers constitute recognition of the entitlements acquired in the National Pensions System (SNP) by insured persons who opt to join the SPP, but that they do not appear to fully constitute a contribution by the public authorities to the financial resources or to the benefits of insurance schemes, in the sense set out in this provision of the Convention. The Committee is bound to hope that the necessary measures will be adopted to give full effect to this provision of the Convention.

4. *Article 10, paragraph 1* (administration of the insurance scheme). The Government states that the public authorities, through the Superintendence of Private Administrations of Pension Funds (SAFP) constantly evaluates pension funds with a view to preventing any risk that may be involved in private management by a limited liability company. The Committee notes that the above provision of the Convention requires that the institutions which administer the insurance scheme shall not be *conducted with a view to profit*, which is not the case of the limited liability companies which administer pension funds. In this respect, the Committee requests the Government to supply

information in its next report on the measures which have been adopted to ensure that the pension funds avoid the risks involved in private management by a limited liability company and that they are not conducted with a view to profit, as required by this provision of the Convention. Please also state whether, as mentioned to the Conference Committee, trade union organizations have formed an Administration of Pension Funds (AFP) fund or taken out shares in any such fund, and provide information on their functioning.

5. *Article 10, paragraph 4* (participation by insured persons in the management of insurance institutions). The Government states that the participation of workers in the SPP consists of the free choice provided by the system to join a particular fund, since insured persons decide freely whether to maintain or transfer their insurance capital to the fund which appears the most suitable and in which they feel most represented. The Committee notes that the free choice in electing a fund manager is not sufficient to fulfil the requirement of participation of insured persons in the management of insurance institutions set out in this provision of the Convention. It therefore requests the Government to adopt the appropriate measures to give effect to this provision of the Convention in the context of the SPP.

6. The Committee notes the observations communicated by a number of organizations, including the Association of Retired Oil Industry Workers of the Metropolitan Area of Lima and Callao, the Union of Dockworkers of Cabotaje Mayor of Callao, and the Associated Circle of Employees and Retired Persons of Electrolima (ADEJE). The Committee refers in this respect to its comments under Convention No. 102 of March and December 1995. With reference to the observations of the Associated Circle of Employees and Retired Persons of Electrolima (ADEJE), the Committee notes the communication by the Government to the effect that under section 5(c) of Presidential Decree No. 011-93-TR, ELECTROLIMA SA pays its employers' contributions directly to the National Pension System of the Peruvian Social Security Institute. The Committee notes that by virtue of section 2 of Presidential Decree No. 30-95-EF, dated 23 February 1995, a loan of 1,450,000 soles was provided to the Insurance Normalization Office to cover the payment of pensions to the former workers of ELECTROLIMA SA.

Convention No. 36: Old-Age Insurance (Agriculture), 1933

Peru (ratification: 1945)

See under Convention No. 35.

Convention No. 37: Invalidity Insurance (Industry, etc.), 1933

Peru (ratification: 1945)

With reference to its 1994 observation, the Committee notes the Government's report, and particularly the information supplied in relation to *Articles 3, 5 and 6 of the Convention*. It notes the information provided on both the National Pension System (SNP) and the private system for the administration of pension funds. The Committee would be grateful if the Government would provide information in its next report on the manner in which it intends to give full effect to the following provisions of the Convention in the context of the private system for the administration of pension funds.

taking into account the comments made in this respect in its observation on the similar provisions contained in Convention No. 35.

1. *Article 10, paragraph 1* (contribution by employers to the financial resources of the insurance scheme). See under Convention No. 35, Article 9, paragraph 1.

2. *Article 10, paragraph 4* (contribution by the public authorities). See under Convention No. 35, Article 9, paragraph 4.

3. *Article 11, paragraph 1* (administration of the insurance). See under Convention No. 35, Article 10, paragraph 1.

4. *Article 11, paragraph 4* (participation by insured persons in the management of insurance institutions). See under Convention No. 35, Article 10, paragraph 4.

5. The Committee notes that the authorization to administer the benefits in case of invalidity and survivors directly by AFP funds will only come into force on 7 November 1997. It also notes that the possibility has been denied insurance enterprises to provide pensions in the form of "programmed retirement". Please indicate the provisions applicable in this respect.

The Committee also notes the Government's statement that, under the terms of section 112(a) of Presidential Decree No. 206-92-EF, an insured person who is recognized as suffering from total permanent invalidity may opt for an early retirement and, in that case, could be covered by the "programmed retirement" method. Furthermore, under section 112(b) of the above Presidential Decree, invalids may opt for the form of pension established under section 42 of Legislative Decree No. 25897, which also includes the "programmed retirement" method. The Committee notes that persons who opt exclusively for the "programmed retirement" method lose any entitlement to a pension when the capital accumulated in their individual account is exhausted. It therefore trusts that the Government will provide information in its next report on the measures that have been adopted to guarantee that all insured persons, and particularly those who have opted for the "programmed retirement" method, are provided with the invalidity benefit envisaged in the Convention during the whole of the contingency.

6. The Committee understands that the impact of the implementation of the SPP can only be ascertained after a certain period of time. In any case, it requests the Government to provide information on the implementation in practice of the option which AFP funds may exercise to administer the contingencies of invalidity and survivors by AFP funds or by insurance companies (section 48 of Legislative Decree No. 25897 of 1992).

Convention No. 38: Invalidity Insurance (Agriculture), 1933

Peru (ratification: 1945)

See under Convention No. 37.

Convention No. 39: Survivors' Insurance (Industry, etc.), 1933

Peru (ratification: 1945)

With reference to its 1994 observation and direct request, the Committee notes the Government's report and in particular the information provided concerning *Articles 3, 4, 5, 6 and 11 of the Convention*. The Committee would be grateful if the Government would provide information in its next report on the manner in which it intends to give full effect to the following provisions of the Convention in the context of the private system for the administration of pension funds (SPP), taking into account the comments that it has made in this respect in its observation on the similar provisions of Convention No. 35.

1. *Article 12, paragraph 1* (contribution of employers to the financial resources of the insurance scheme). See under Convention No. 35, Article 9, paragraph 1.

2. *Article 12, paragraph 4* (contribution by the public authorities). See under Convention No. 35, Article 9, paragraph 4.

3. *Article 13, paragraph 1* (administration of the insurance scheme). See under Convention No. 35, Article 10, paragraph 1.

4. *Article 13, paragraph 4* (participation by insured persons in the management of insurance institutions). See under Convention No. 35, Article 10, paragraph 4.

5. The Committee notes that under the terms of section 4 of resolution No. 141-93-EF/SAFP, dated 27 August 1993, survivors' pensions may be paid by the "programmed retirement" method. The Committee notes that persons who opt exclusively for the "programmed retirement" method lose any entitlement to a pension when the capital accumulated in their individual account is exhausted. It therefore trusts that the Government will include information in its next report on the measures which have been adopted to guarantee that beneficiaries who have opted for this method of payment are provided with a survivors' benefit during the whole period of the contingency.

6. The Committee would be grateful if the Government would provide information on the application in practice of the option that may be taken by AFP funds to administer the survivors' contingency by AFP funds or by insurance companies (section 48 of Legislative Decree No. 25897 of 1992).

Convention No. 40: Survivors' Insurance (Agriculture), 1933

Peru (ratification: 1945)

See under Convention No. 39.

Convention No. 41: Night Work (Women) (Revised), 1934

Central African Republic (ratification: 1960)

The Committee has noted the information provided by the Government in its report.

In its former comments, the Committee noted that section 3 of Order No. 3759 of 25 November 1954 allows departures to be made from the ban on night work for women in circumstances which are not recognized by this Convention. The Committee notes the Government's declaration that the social crisis which has affected the Government in recent years has not allowed it to amend section 3 of the said Order. It expresses the hope that the Government will do everything in its power to take, in the near future, the necessary measures which have long been announced to bring the law into harmony with the Convention.

The Committee asks the Government to indicate all progress made in that direction.

Convention No. 42: Workmen's Compensation (Occupational Diseases) (Revised), 1934

Australia (ratification: 1959)

1. *Capital Territory.* Referring to its previous comment, the Committee notes with interest from the Government's report that the Workmen's Compensation Act of 1951 is in the process of being amended to include in the list of trades, industries or processes likely to cause anthrax infection "the loading and unloading or transport of merchandise", as mentioned in the schedule appended to the Convention. It hopes that this modification will be adopted soon and requests the Government to supply a copy of the amendment once it is adopted.

2. *Western Australia.* Further to its previous comments concerning the conditions in which anthrax is recognized as an occupational disease, the Government states that the Western Australia Tripartite Labour Consultative Council has endorsed the amendment of the Workers' Compensation and Rehabilitation Act of 1981, and that the draft is in the process of being completed to fully comply with the provisions of the Convention. The Committee notes this information with interest. It hopes that the amendment will be adopted in the near future and would appreciate receiving a copy of the amended legislation once it is adopted.

3. *Queensland.* The Committee notes the Government's statement that the Workers' Compensation Board of Queensland intends to research the issue of a double-list system and will consider supplementing the present scheme with it. The Committee would like to stress the importance of adopting a double-list system to establish a presumption of occupational origin of the disease for workers engaged in the industries or occupations mentioned in the right-hand column of the schedule of the Convention, when they suffer from one of the conditions appearing in the left-hand column of this schedule. The Committee hopes once again that the Government will adopt a double-list system in the near future to give full effect to the provisions of the Convention.

4. *South Australia.* The Committee notes that the second schedule of the Workers' Rehabilitation and Compensation Act, 1986, does not include the loading, unloading, or handling of merchandise in the list of corresponding occupations for anthrax. It hopes that the Government will take the necessary measures to accordingly complete such list when the second schedule is next revised.

5. *New South Wales.* The Committee notes that the list of occupational diseases included in Schedule 2 of the (General) Regulation 1987 does not include silicosis with or without tuberculosis. The Committee requests information on what provisions exist to provide compensation for such diseases, in conformity with the Convention.

Brazil (ratification: 1936)

Further to its previous comments, the Committee notes with satisfaction that anthrax infection has been included in the new national list of occupational diseases (Decree No. 611 of 21 July 1992, Annex II, item 25, concerning diseases caused by micro-organisms and infectious parasites). The Committee has raised certain other questions in a request addressed directly to the Government.

France (ratification: 1948)

For many years the Committee has been drawing the Government's attention to the need to bring national legislation into full conformity with the Convention on the following points: (a) the *restrictive nature* of the pathological manifestations listed under each of the diseases included in the schedules of the national legislation; (b) the absence from those schedules of an item covering in general terms, as in the Convention, *poisoning by all halogen derivatives of hydrocarbons of the aliphatic series* and by *all compounds of phosphorous*; and (c) the omission from among trades likely to cause *primary epitheliomatous cancer of the skin* of processes involving the handling of certain products mentioned by the Convention.

The Committee therefore expressed the hope in its previous observation that the establishment of a new supplementary system for the recognition of occupational diseases — which the Government had stated would make it possible to compensate a disease not included in a schedule but that is attributable on a case by case basis to certain specific working conditions — could lead to the adoption of the necessary measures to give effect to the Convention.

In its latest report, the Government notes the establishment, under the terms of section 7 of Act No. 93.121 of 27 January 1993 (amending section L.461-1 of the Social Security Code), of a supplementary system for the recognition of occupational diseases based on an individual examination of cases carried out by the regional committees for the recognition of occupational diseases established under Decree No. 93.683 of 27 March 1993. This system makes it possible for workers who suffer from a disease that is not included in a schedule or which does not meet the criteria contained in the schedule, to claim compensation in respect of occupational diseases provided that the occupational nature of the disease is demonstrated in an adversarial investigation of the claim by the regional committees for the recognition of occupational diseases. The procedure for recognition established for workers suffering from a disease that is not included in one of the schedules of occupational diseases is nevertheless only available in cases in which the disease has caused the death or permanent incapacity of at least 66.66 per cent under the terms of Decree No. 93.692 of 27 March 1993 (section R.461-8 of the Social Security Code).

The Committee notes this information with interest. It also notes the guide prepared by the Ministry of Labour for the regional committees for the recognition of occupational diseases. The Committee notes in particular that, as regards cases of serious diseases covered by paragraph 4 of section L.461-1 of the Social Security Code, although the existence of a direct and fundamental connection between the disease and the normal occupational activity of the victim is required for the recognition of the occupational origin of the disease, this connection does not necessarily exclude the effect of factors other than those of an occupational nature. In this latter case, it is nevertheless necessary for occupational factors to constitute the determinant and overwhelming causal factor in the emergence of the disease. The guide also contains certain methodological indications for the use of the committees concerning the diseases that are likely to arise most frequently in the context of the procedure referred to in paragraph 4 of section L.461-1.

The Committee recalls that the Convention, with its enumeration under each of the diseases included in its schedule of the occupations and industries liable to cause these diseases, is intended to relieve workers in the above occupations and industries of the obligation to provide proof that they have in fact been exposed to the risk of the disease in question, which may in certain cases be particularly difficult to demonstrate. In this context, the Committee notes that, according to the above guide prepared by the Ministry of Labour, the file that has to be submitted to the regional committee by the primary Fund must endeavour to describe the medical characteristics of the disease and the technical nature of the exposure, as well as providing any relevant information concerning the pathological case history of the victim and, where appropriate, the non-occupational pathogenic factors to which the victim may have been exposed. The attribution of the disease to risk factors has to follow the usual procedures. The analysis of the symptoms and the evaluation of the diagnosis are determinant factors in the attribution of the disease, as well as the examination of the chronological relationship between exposure and the onset of the disease, with particular importance being attached, where appropriate, to any delay in the appearance of symptoms and any reincidence following further exposure. The elements in the file must not be confined to the last identified employer. Finally, the investigation must be adversarial in its nature and include all the expert opinions that can contribute information on the disease from which the claimant suffers, on his or her working conditions and the circumstances surrounding the exposure to the alleged harmful agents. All of the proof produced must also be communicated to the parties concerned, who have full latitude to produce the opinions and documents which appear to them to be necessary.

In view of the objectives of the Convention as recalled above, the Committee would be grateful if the Government would provide detailed information on the effect given in practice to the new supplementary system for the recognition of occupational diseases, particularly with regard to the *establishment of the direct and fundamental link between the disease with the normal occupational activity of the victim* (as set out in paragraph 4 of section L.461-1 of the Social Security Code) and the *furnishing of proof* in the specific cases of the diseases included in the schedule attached to the Convention. It also requests the Government to provide information on the outcome of any procedures initiated before the regional committees for the recognition of occupational diseases where they relate to the diseases included in the above schedule to the Convention.

The Committee hopes that, as emphasized in the guide prepared for the regional committees, the implementation of the new procedure for the recognition of occupational diseases will also lead to the adoption of legislative measures to supplement the schedules contained in French legislation in accordance with the objectives of the Convention. Furthermore, with regard to workers suffering from partial permanent incapacity, the Committee considers that the determination of a minimum rate of 66.66 per cent considerably limits the scope of the new procedure established under paragraph 4 of section L.461-1 by excluding diseases which result in a high degree of invalidity and which are liable to prejudice the social and occupational situation of the victims in a particularly significant manner. The Committee hopes that the Government's next report will contain information on all further measures which have been adopted or are envisaged in this respect.

Haiti (ratification: 1955)

The Committee notes with regret that the Government's report has not been received for the third consecutive time. It therefore hopes that a report will be supplied for examination at its next session and that it will contain information on the measures taken or contemplated, with technical assistance from the ILO if necessary, to establish in due course an infrastructure which, inter alia, will gather information, including statistics, on the practical application of the Convention, in accordance with *point V of the report form* adopted by the Governing Body.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

South Africa (ratification: 1952)

The Committee notes with satisfaction the adoption of the Compensation for the Occupational Injuries and Diseases Act, No. 130 of 1993, which complies with the specifications set out in the list of occupational diseases mentioned in the Schedule to the Convention in most respects. However it addresses a request directly to the Government concerning certain points.

Turkey (ratification: 1946)

With reference to its previous comments, the Committee takes note of the report of the Government, as well as the comments submitted by the Turkish Confederation of Employer Associations. The Government explains in its report that any disease which does not appear in the Regulation of July 1985 may be accepted as an occupational disease by the Social Insurance Supreme Medical Board. The Committee notes this information. The Committee trusts that the Government will take the necessary measures to clarify in the legislation that the list of symptoms is intended to be indicative rather than restrictive in nature.

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In addition, requests regarding certain points are being addressed directly to the following States: *Brazil, Honduras, South Africa, Turkey.*

Convention No. 44: Unemployment Provision, 1934

Spain (ratification: 1971)

1. The Committee notes the information provided by the Government in its report. It has also examined the new legislation respecting unemployment which was supplied by the Government, namely Act No. 22 of 30 July 1992 respecting urgent measures to promote employment and protect against unemployment and Royal Legislative Decree 1/1994 of 20 June containing the consolidated text of the General Social Security Act. The Committee notes that this legislation provides, among other measures, for stricter conditions for entitlement to unemployment benefit, while reducing the amount of the benefits. In this connection it further notes the comments on the application of the Convention made by the General Union of Workers (UGT) and the Trade Union Confederation of the Workers' Committees (CC.OO), which are supplied by the Government together with its reply to them. The Committee considers that, despite the legislative changes underlined by the trade unions, the provisions of the Convention continue to be applied, subject to point 2 below.

2. The Committee notes that in its comments the CC.OO referring to section 3, subsection 2(g) of Law 10/1994 of 19 May, concerning urgent measures for the promotion of employment, states that it totally deprives workers who conclude a contract of apprenticeship ("contrato de aprendizaje") of the right to unemployment benefit. Taking into account that this contract, for workers between 16 and 25 years of age, can be concluded for a period of up to three years, the CC.OO points out that a 28 year-old worker who has concluded a contract of apprenticeship could find himself without any unemployment protection. In this connection the Committee further notes that the UGT, in its later comments concerning the application of Convention No. 102 communicated in January 1995, also considers the above provision of the legislation is not in conformity with the international standards.

In reply to the comments of the trade unions, the Government states that the contract of apprenticeship is a special contract aimed at facilitating the entry into the workforce of young persons who lack specific training or working experience and providing them with the necessary theoretical and practical education. It adds that provisions regulating the contracts of apprenticeship establish minimum standards, and that a number of conditions, such as the duration of the contract, the time assigned to theoretical training and the remuneration of an apprentice, may be established through collective agreements with the participation of the trade unions. Finally, as regards Convention No. 44, the Government states that apprentices can be excluded from the scope of its application under Article 2, paragraph 2(f), of the Convention.

The Committee notes that, according to section 3, subsection 2(g), of Law 10/1994, mentioned above, social protection for apprentices shall include only the contingencies of employment injury, health care for disease of non-occupational origin, maternity cash benefit, pensions and wage guarantee fund, thus excluding unemployment benefit. It recalls that Convention No. 44, by virtue of Article 2, paragraph 1, applies to all persons regularly employed for wages or salary, subject to possible exceptions with regard to the categories of persons enumerated in paragraph 2 of this Article. The Committee observes in this respect that apprentices are employed for wages and that the time they actually work in relation to the time spent in theoretical training may comprise up to 85 per cent of their working day (section 3, subsection 2(e) and (f), of Law 10/1994). The Committee recalls that, as regards Article 2, paragraph 2(f), of the Convention which permits the exclusion of "young workers under a prescribed age", it appears from the preparatory work on the Convention that the word "young" was specifically added to this provision in order to ensure that the age prescribed should not be too high. This would apparently not be the case under the Spanish legislation where workers may continue in apprenticeships until the age of 28 years which would be too high to call the workers "young workers". For these reasons, while being fully aware of the need to take measures to promote employment of young persons, the Committee hopes that the Government would reconsider the question with a view to ensuring better application of the Convention on this point.

3. Finally, as regards changes in the definition of "suitable" employment, the Committee notes the detailed explanation given by the Government in its report, as well as the information and judicial decisions supplied in its report on Convention No. 122 in connection with the previous comments made by the UGT and CC.OO on this subject.

[The Government is asked to report in detail in 1996.]

United Kingdom (ratification: 1936)

Article 10, paragraph 1 and Article 11 of the Convention. (a) In its previous observation and further to the comments made by the Trades Union Congress (TUC) the Committee noted that Regulation 12(E), contained in Regulation No. 1324 of 1989, as well as section 28 of the Social Security Contribution and Benefits Act of 1992, amended the rule disqualifying a person from receiving unemployment benefit for having refused suitable employment — a concept to which Article 10 of the Convention refers — by substituting the apparently more restrictive concept of refusing employment "without good cause". Moreover, under the guidelines setting out the various criteria on the basis of which adjudication officers determine whether or not a "good cause" exists, the responsible official has to disregard, with the exception of the special rules relating to the "permitted period", any matter relating to the level of remuneration in the employment in question, including the fact that the wage offered is lower than that received by most other employees in that occupation. The Committee recalled that *Article 10, paragraph 1(b)(ii) of the Convention* provides that employment shall not be deemed to be suitable, if the rate of wages offered is lower "than the standard generally observed at the time in the occupation and district in which the employment is offered". It therefore requested the Government to indicate the measures taken or contemplated to ensure that (a) unemployment benefit is not suspended under conditions or for reasons which go beyond those authorized by the Convention, and (b) that the duration of the benefit provided to any insured person who does not refuse to seek or accept suitable employment, in the sense of Article 10 of the Convention, is in no case less than the period set out in *Article 11* of the Convention which provides that the right to receive unemployment benefit may be limited in duration to a period which shall not normally be less than 156 working days per year and shall in no case be less than 78 working days per year.

In its reply, the Government assures the Committee that there is no question of unemployment benefit being disallowed in breach of the Convention since the suitability of an employment offer would have to be taken into account in establishing whether a rejection was "without good cause". Moreover, regulations provide that sanction for refusing employment can only be imposed if the job has been notified to the claimant by the employment service which will act responsibly and will not set out to offer people inappropriate jobs. During the five years since the legislation was changed, the Government is not aware of any evidence that claimants have been unfairly pressed into unsuitable work. As regards more particularly the question of whether the level of remuneration constitutes good cause for refusing unemployment benefit, the Government indicates that, following the introduction in 1988 of extensive in-work benefits available to people in full-time work, such as family credit, housing benefit, council tax benefit and disability working allowance, legislation provided that the level of remuneration would not normally be adduced as good cause for refusing a job. As the UK policy concentrated on incentives to help people back into work, the so-called "going rate" for a job in a particular locality has become largely an irrelevance; it was impossible for someone to be able to rely solely on the level of pay in a job as the reason for refusing to take it, without taking into account his position as regards the in-work benefits. In this connection, the Government considers that to interpret Article 10 of the Convention in such a way as to ignore the effect of in-work benefits would allow people with large families to trap themselves in unemployment indefinitely. There would be no incentives for people to move into work and off unemployment benefits. However, the Government, adds that the level of pay can still be a relevant factor which may be regarded as good cause for refusing an offer of employment, particularly with respect to newly unemployed people who should be given a reasonable chance of returning to their former type of work. There is therefore a "permitted period" of up to 13 weeks during which they can refuse any other type of work, as well as work in their usual occupation that pays less than they used to receive. In the opinion of the Government, these safeguards offer adequate protection to claimants of unemployment benefit and ensure that Articles 10 and 11 of the Convention are thus fully satisfied.

The Committee notes this information. Firstly, with regard to the Government's statement that the suitability of an employment offer would have to be taken into account by the adjudication officers in establishing whether a rejection was "without good cause", the Committee cannot but recall that the concept of suitable employment was expressly removed from the legislation, regulations and guidelines governing the activities of the authorities responsible for the administration of the unemployment insurance scheme, including the adjudication officers who, under the present legislation, have very broad discretionary powers to decide upon the suspension of unemployment benefit. Secondly, with regard to the Government's assertion that the actual level of remuneration has become largely an irrelevance in judging the suitability of employment because of the in-work benefits involved, the Committee observes that all of the benefits mentioned by the Government (family credit, housing benefit, council tax benefit and disability working allowance) are income-tested and cannot be considered, in view of their nature and objectives, either as an element of the wage or as a condition of employment within the meaning of Article 10, paragraph 1(b), of the Convention. Furthermore, such benefits are available to all full-time employees who meet the conditions and not just those persons who have commenced employment after a period on unemployment benefits. In these circumstances, the Committee cannot but again express the hope that the Government will not fail to take the necessary measures to ensure the full application of the above-mentioned provisions of the Convention.

(b) The Committee also notes from the Government's report the adoption on 28 June 1995 of the Jobseekers Act, which will come into force in October 1996 and which will replace the present unemployment benefit and income support for the unemployed with a unified jobseeker's allowance. According to the information supplied by the Government in its report under the European Code of Social Security, it will consist both of a contribution-based and income-based element. The emphasis will be on job search and getting people back to work. Appropriate activity will include job search, as now, but actions improving employability will also count. Finally, decisions on entitlement will, as now, be made by adjudication officers, and there will be the same appeals structure.

The Committee notes that, while sections 28 and 29 of the Social Security Contributions and Benefits Act of 1992 are being repealed by the new Jobseekers Act, the latter contains certain provisions which refer to legal notions similar to those presently in force, as well as introduces additional requirements susceptible to raise new questions concerning the application of the Convention. In particular, the entitlement to the jobseeker's allowance is subjected inter alia to the conditions that a claimant "has entered into a jobseeker's agreement which remains in force", is "actively seeking employment" (section 1(2)(b) and (c) of this Act), and "is willing and able to take up immediately any employed earner's employment", subject to regulations including those relating to the "permitted period" (section 1(2)(a) and section 6). Section 19 of the Act maintains the denial of the jobseeker's allowance when an unemployed person has acted "without good cause", and provides, subject to the regulations, that in determining whether the person has, or does not have, good cause, "any matter relating to the level of remuneration in the employment in question shall be disregarded". The Committee further observes that the Jobseekers Act contains general principles the application of which is largely left to regulations. In these circumstances the Committee hopes that in adopting the regulations the Government will not fail to take fully into consideration the requirements of the Convention, and in particular Articles 10 and 11. It requests the Government to supply in its next report full particulars on the effect of the new legislation on the application of each Article of the Convention, together with the text of all implementing regulations and, the Explanatory Note to the Jobseekers Act, if any.

[The Government is asked to report in detail in 1997.]

Convention No. 45: Underground Work (Women), 1935

Dominican Republic (ratification: 1957)

The Committee notes the information supplied by the Government in its report.

In previous comments, the Committee noted the enactment of the Labour Code (Act No. 16-92 of May 1992), which does not prohibit the employment of women workers in underground work.

The Committee notes the Government's statement that in practice problems do not arise in relation to underground work by women because there are no underground mines in the Dominican Republic. The Government states that when constructing dams, for which it was necessary to excavate tunnels, the authorities took measures to prevent the engagement of women in this underground work. These measures consisted of supervising the recruitment of workers and monitoring the full period of work.

The Committee wishes to recall that the general policy developed by the ILO is to ensure a safe and healthy working environment for all and to adapt work to the capacities of the worker, in so far as is reasonable. Where the working environment is not "safe and healthy for all", it is legitimate in accordance with the appropriate international instruments to provide protection for persons with specific needs, arising out of their age or physiological condition, which may include the prohibition of performing the work in question.

The Committee considers that, in view of the absence of a decision respecting the denunciation of the Convention, it is necessary to undertake an examination of the conditions of work in mines in the light of scientific and technical knowledge with a view to determining whether this working environment is reasonably safe and healthy for all in the sense set out in the Occupational Health Services Convention, 1985 (No. 161). The Committee considers that if it is found that this is not the case, maintenance of the protection provided by the Convention would be justified and that consideration could even be given to extending it to other underground work of the same type.

The Committee requests the Government to continue informing it of the measures that have been taken or are envisaged in this respect.

Guinea-Bissau (ratification: 1977)

The Committee has noted the information supplied by the Government in its report.

In previous observations, the Committee noted that Act No. 2/86 of 5 April 1986 enacting the Labour Code repealed previous legislation which barred the employment of women on underground work but its section 155 provided that supplementary legislation will establish the circumstances or banning of their employment on such work as well as on other work liable to prejudice women's genetic function.

The Committee notes that according to the Government's report, no progress has yet been achieved in harmonizing legislation with the Convention. It hopes that the necessary measures will be taken by the Government, in accordance with its obligations arising from ratification of the Convention. It requests the Government to communicate information on any new measure in this respect.

Lesotho (ratification: 1966)

The Committee has noted the information provided by the Government in its report. The Committee notes with satisfaction the provisions of section 132 of the new Labour Code which puts into effect the requirements of the Convention.

The Committee requests the Government to keep it fully informed on the practical application of the Convention.

Zambia (ratification: 1964)

The Committee notes the information supplied by the Government in its report.

In its previous comments, the Committee noted that the Employment of Women, Young Persons and Children Act, No. 14 of 1989, Cap. 505 of the Laws of Zambia has been amended by Act No. 4 of 1991 under which the provision relating to the protection of women to work underground has been repealed and expunged from the said Act following the ratification of the UN Convention on the Elimination of All Forms of Discrimination Against Women and that the ILO Convention is therefore no longer being applied.

The Committee notes from the Government's report that on the basis that there have been significant technological changes in the operations of mines and taking into account that women should have equal opportunities and treatment in employment and occupation, they should be given latitude to freely choose a profession and employment in the mines without any hindrance whatsoever. The Government, therefore, entered into consultations with the representative organizations of workers and employers and decided that the protective measures provided in respect of women in the Employment of Women, Young Persons and Children Act, Cap. 505 of the Laws of Zambia, be expunged. Whilst it is desirous to re-examine the situation in the light of Zambia's obligation arising from its ratification of the Convention, it is stated here that the current measures being undertaken are to finalize consultations with social partners to denounce the Convention formally at an appropriate time.

The Committee recalls that the Convention allows for underground work of females holding positions of management, or employed in health and welfare services, or spending a period of training in the underground parts of a mine, or any other female who may occasionally have to enter the underground parts of a mine for the purpose of a non-manual occupation, but not for manual work of a female employed on underground work in any mine.

The Committee requests the Government to provide a copy of any report or study on the significant technological changes occurring in the operations of mines in Zambia and their bearing upon the conditions of manual labour underground in mines, including in particular the regular exposures to vibration and the manual lifting of weights, and to communicate information on any measures adopted in this respect.

Convention No. 50: Recruiting of Indigenous Workers, 1936

A request regarding certain points is being addressed directly to *Guatemala*.

Convention No. 52: Holidays with Pay, 1936

Central African Republic (ratification: 1964)

For several years the Committee has observed that section 129, second paragraph, of the Labour Code provides that the length of service entitling workers to holiday can be of up to 24 or 30 months in the case of an individual contract or a collective agreement. It has further noted that in 1980 and 1988 a draft Decree was drawn up with the assistance of the ILO, providing for the amendment of section 129 of the Code so that persons covered by the Convention may benefit from a minimum holiday with pay every year. It has also noted that at the Conference Committee in 1992, the Government indicated that it started the process to amend the Labour Code to comply with the requirements of the Convention. The Committee notes that in its latest report the Government indicates that in its opinion the national legislation is not incompatible with the Convention. The Committee recalls that *Article 2 of the Convention* sets forth the right to annual holiday with pay of at least six working days after one year of continuous service. The Committee hopes that the Government will soon provide information on the measures adopted to ensure full compliance with the Convention.

Chad (ratification: 1961)

The Committee notes with regret that the Government's report has not been received. Referring also to the comments presented by the Chad Trade Union Confederation on the application of the Convention, the Committee recalls that its previous observation read as follows:

> In a direct request, the Committee is again referring to certain questions under *Articles 2(1) and 7 of the Convention*, which have been the subject of its comments for several years. It hopes the Government will soon be able to indicate that progress has been made.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Panama (ratification: 1958)

Articles 2 and 3 of the Convention. Referring to its previous observations, the Committee notes with satisfaction that under section 6 of Act No. 44 of 12 August 1995 regularizing and modernizing occupational relations, section 59 of the Labour Code, approved by Ministerial Decree No. 252 of 30 December 1971, has been amended by the addition of a provision to the effect that where there is accumulation of leave the worker shall have at least 15 days' leave during the first period and will accumulate the remaining days for the second period. The Committee also notes with satisfaction that section 5 of the same Act has added a section 54A to the Labour Code which provides that when the worker receives part of his salary in kind, remuneration in cash for vacation pay must be increased by the payment in kind or its cash equivalent.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Argentina, Bulgaria, Chad, Comoros, France, Gabon, Kyrgyzstan, Lebanon, Libyan Arab Jamahiriya, Paraguay.*

Convention No. 53: Officers' Competency Certificates, 1936

Argentina (ratification: 1955)

The Committee notes the information supplied by the Government to the 82nd Session of the Conference, and the ensuing discussions.

The Committee notes in particular that the national legislation (REFOCAPEMM, section 1(06) to (10), and Act No. 17371, section 2) require seafarers who have acquired their nautical skills abroad to request the confirmation of their qualifications, which involves being of the age required by the REFOCAPEMM to hold the qualification or certificate that is to be confirmed, as well as being in possession of the psychological and physical conditions required in the respective regulations, passing the appropriate theoretical and practical examinations and submitting documentation including, in addition to the certificates, embarkation papers and analytical programmes of the courses completed with success in nautical institutions. Furthermore, foreign seafarers wishing to embark temporarily on merchant ships registered in Argentina must, in the case of masters and officers, submit their certificates of competency delivered in accordance with international standards and have knowledge of the national language equivalent to the standardized maritime vocabulary of the International Maritime Organization. The procedure ends with the granting and/or confirmation of the certificate by the Argentinian Navy, whereas the actual endorsement or recognition of the certificate is the responsibility of the Argentinian Maritime Prefecture.

The Committee also notes that the Government did not understand the reference made by the Union of United Maritime Workers (SOMU) that certain enterprises were issuing embarkation documents, because according to the information supplied in the Conference the only authority empowered to issue embarkation documents was the National Maritime Prefecture. Furthermore, the Government states that the above trade union only represents maritime ratings, and not officers.

The Committee considers that in light of the information supplied by the Government, and the provisions of the national legislation, *Articles 3 and 4 of the Convention* are applied, at least in law. Nevertheless, it notes that the Worker member of Argentina stated in the Conference Committee on the Application of Standards that, although foreign seafarers are formally required to produce certificates, in practice recognition of such certificates is granted too easily. He stated that this was a result of the decision by the Government to permit Argentinian shipowners to use the flags of other countries, while remaining on the national register, and the adoption of Decrees Nos. 817 and 1264, both in 1992, which suspended 62 collective agreements containing clauses respecting the training of seafarers and supervisory machinery for the unionized sector guaranteeing the engagement of seafarers in accordance with the qualifications required.

The Committee considers that the information at its disposal does not permit it to gain a sufficiently clear idea of the situation. It hopes that the next meeting of the Tripartite Consultative Committee to Promote the Application of International Labour Standards, to which the Government referred in its report on the application of Convention No. 22, will clarify the matter.

The Committee would be grateful if the Government would supply information on the outcome of the discussions held in the above-mentioned body and in particular on the positions of the participating parties concerning matters raised by the SOMU with regard to navigating officers in charge of a watch, chief engineers and engineer officers in charge of a watch who, together with masters, are the seafarers to whom the Convention applies.

The Committee hopes that the Government will supply information that will enable it to gain a clearer understanding of the situation, particularly with regard to the situation of officers on vessels registered in Argentina, but which fly a foreign flag, as well as officers engaged on vessels which have been granted the benefit of the national flag and whose titles or certificates are subject to preferential recognition under the terms of section 1(06)(4) of the REFOCAPEMM. The Committee would also be grateful if the Government would consider in its replies the most recent communications from the SOMU, dated 11 and 14 August and 14 September 1995.

* * *

In addition, a request regarding certain points is being addressed directly to the *Libyan Arab Jamahiriya*.

Convention No. 55: Shipowners' Liability (Sick and Injured Seamen), 1936

Egypt (ratification: 1982)

The Committee notes the information provided by the Government in its report, in particular regarding *Article 9 of the Convention*.

Article 11. In its previous comments, the Committee drew the Government's attention to the fact that section 2(b), *in fine*, of the Social Insurance Act No. 79, 1975, restricts application of its provisions to foreigners holding a contract of at least one year and is subject to a reciprocal agreement having been concluded, contrary to this provision of the Convention. In its last report, the Government indicated that the above-mentioned section 2(b) states that its application is subject to the provisions of international Conventions ratified by Egypt. The Committee takes due note of this information. The Committee would be grateful if the Government would provide in its next report detailed information on the measures taken to ensure both in law and in practice, that the provisions of the Convention are applied to foreigners even in the absence of a reciprocal agreement and whatever the length of their contract, particularly in the context of the Egyptian Social Insurance Institute. Please send the text of any implementing regulations (administrative memoranda, circulars, etc.) issued to this effect.

Panama (ratification: 1971)

The Committee notes from the Government's report that the draft maritime legislation to which the Government has been referring since 1982 has not yet been adopted. The Committee recalls that since the examination of the first report of the Government it has been pointing out the need to adopt legislation to give effect to the following provisions of the Convention: *Article 2* (the period of liability of the shipowner in case of sickness of seamen is to extend from the date specified in the article of agreement for reporting for duty until the termination of the engagement); *Article 3(b)* (maintenance at the expense of the shipowner is to include the supply of board and lodging); *Article 7* (the shipowner is liable to defray burial expenses in case of death occurring on board the vessel or on land); and *Article 8* (the shipowner is to take measures to safeguard property left on board by sick, injured or deceased persons).

The Committee trusts that the maritime legislation concerned will be adopted in the near future and that it will contain the necessary provisions to give full effect to the Convention.

[The Government is asked to report in detail for 1997.]

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In addition, requests regarding certain points are being addressed directly to the following States: *Djibouti, United States*.

Information supplied by *Peru* in answer to a direct request has been noted by the Committee.

Convention No. 56: Sickness Insurance (Sea), 1936

Panama (ratification: 1971)

Article 1 of the Convention (scope). In previous comments, the Committee had drawn the Government's attention to the fact that resolution No. 1348-83 J.D. of 1983 excludes from the social security scheme any foreign seaman married to a non-Panamanian woman or having children by a non-Panamanian mother, contrary to the provision of *Article 1*. The Government states in its report that the draft legislation which would bring resolution No. 1348-83 into conformity with the Convention is still in the initial stages of parliamentary debate. The Committee notes this information and expresses its hope once again that the Government will take the necessary steps in the very near future to ensure that all foreign seamen are covered by the social security scheme.

[The Government is asked to report in detail in 1997.]

Peru (ratification: 1962)

Article 3 of the Convention. With reference to its previous comments, the Committee notes the Government's reply that section 34 of Decree Law No. 22-482 of 1979 and section 93 of Supreme Decree No. 08-80-TR both authorize the payment of benefit to compulsorily insured workers and their families even when the employer has not paid contributions. The Committee requests further information on the application of these provisions in practice, in particular on the number of cases in which benefit, including medical care, has been provided to workers whose employers have failed to pay contributions.

Article 8. Further to its previous comments, the Committee notes the Government's statement that inspections will be carried out to verify the employers' fulfilment of their obligation to pay contributions. The Committee would appreciate being kept informed of the number and results of these inspections, and of the actions taken against those employers which such inspections reveal are not paying contributions. See also the Committee's comments under Convention No. 24.

[The Government is asked to report in detail in 1997.]

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In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Egypt, Norway, Panama, Slovenia*.

Convention No. 59: Minimum Age (Industry) (Revised), 1937

Bangladesh (ratification: 1972)

The Committee notes that a Memorandum of Understanding was signed on 4 July 1995, between the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), UNICEF and the ILO Office in Dhaka. It notes that the purpose of this MOU is the removal of underaged children from BGMEA factories, including subcontracting factories, and placing them in appropriate education programmes. It also notes that it is provided that no new child workers, who have not attained 14 years of age, will be hired by BGMEA member factories.

Noting that the MOU, setting the target date of 31 October 1995, includes a proviso that the employment of children will not be terminated until such programmes are ready to absorb them, the Committee requests the Government to provide information on the measures taken to implement the above MOU, as well as a general account of the application of the Convention in practice in the garment manufacturing and other sectors covered by the Convention, including, for instance, extracts from inspection reports, and information on contraventions reported.

Pakistan (ratification: 1955)

1. In its earlier comment, the Committee noted the adoption of the Employment of Children Act, 1991, which in section 2(iii) defines "child" as a person who has not completed his fourteenth year of age. Section 19 of the Act prescribes that the definition of "child" contained in the Factories Act, 1934, and the Mines Act, 1923, should be deemed to be amended in accordance with the definition in section 2 of the above Act. The Factories Act, 1934, and the Mines Act, 1923, established the minimum age for access to employment at 15 years of age, in accordance with *Article 7, paragraph 4(a) and (b), of the Convention*. The Pakistan National Federation of Trade Unions observed in 1992 that this had resulted in a contradiction regarding the minimum age for access to employment established in the legislation.

The Committee considered that there was an uncertainty with respect to the minimum age for admission to work covered by the Mines Act, 1923, and the Factories Act, 1934. It therefore requested the Government to indicate the measures taken or envisaged to ensure that children under the age of 15 years should not be employed or work in mines, quarries and other works for the extraction of minerals from the earth, and in other dangerous or unhealthy occupations, in accordance with *Article 7, paragraph 4, of the Convention*.

In its report, the Government refers to the general minimum age of 14 years for access to employment set forth in article 11, clause 3 of the Constitution as well as in the Factories Act, 1934. It also indicates that the inspectorate of mines ensures that children below the age of 15 years are not employed in mines, quarries and other extraction companies.

The Committee notes this information and requests the Government to indicate the legislative provisions or administrative instructions which provide the basis for such action by the inspectorate of mines. The Committee also requests it to supply further information on the measures taken to ensure that persons under the age of 15 years should not be employed or work in dangerous or unhealthy occupations, in accordance with *Article 7, paragraph 4(b) of the Convention*.

2. The Committee notes the Government's indication that, under the 1991 Act, penalties have been enhanced and also that primary education has been made compulsory. It notes with interest that, through the activities of the inspecting machinery, 3,329 cases of employment of children were lodged for trial, of which 1,544 cases have been decided by the courts and the prescribed fines and penalties have been imposed on the employing establishments. The Committee asks the Government to continue to supply such information on the application of the Convention in practice.

3. The Committee finally notes that the Government has recently signed a Memorandum of Understanding with the ILO, envisaging activities under the International Programme for the Elimination of Child Labour, that a technical advisory committee has been set up for a nationwide survey on child labour and that more strict legislative measures will thereafter be taken as well as amendments to respective laws if necessary. The Committee requests the Government to provide information on any

development in this regard, with particular reference to any consideration given in such general framework to the point it has been raising under point 1 above.

Sierra Leone (ratification: 1961)

In its previous comments, the Committee noted the draft Employment Act prepared with the ILO's assistance which prescribes the age of 16 years for admission to employments likely to jeopardize the life, health or morals of young persons, so as to give effect to *Article 5 of the Convention*. The draft Act also provides that "the employer shall keep a register of all children under the age of 18 years employed by him and of the dates of their birth", in accordance with *Article 4 of the Convention*. The Committee notes from the Government's reports that the draft Act has not yet been enacted. Therefore, it expresses the hope again that the new Act will be adopted in the very near future in order to ensure complete conformity of the national legislation with the Convention on these points and that the Government will soon be able to communicate the text of the new Employment Act.

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In addition, requests regarding certain points are being addressed directly to the following States: *Guatemala, Lebanon, United Republic of Tanzania*.

Convention No. 64: Contracts of Employment (Indigenous Workers), 1939

A request regarding certain points is being addressed directly to *Guatemala*.

Convention No. 68: Food and Catering (Ships' Crews), 1946

Panama (ratification: 1971)

The Committee notes the Government's report indicating that the draft text of the labour act respecting navigable seaways and waterways has not yet been adopted but that a tripartite national commission will be established to ensure its conformity with maritime Conventions. The Committee is bound to repeat its hope that this draft will be adopted in the very near future and that it will take into consideration the comments it has been making for several years.

> *Article 1 of the Convention*. The Committee notes that Chapter Eight of the above text respecting fishing and coastal vessels contains no specific provision relating to food and catering on board coastal vessels. Moreover, the provisions contained in Chapter Five on accommodation and food are of a general nature and do not ensure that the Convention is applied to coastal vessels, even though they are sea-going. If the above draft text was adopted in its current state, the Committee would be grateful if the Government would state whether, as a consequence, any legislation relating to the application of the Convention is applicable to the above vessels.
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> *Article 2(a) and Article 5, paragraph 2(a)*. The Committee notes the information concerning the application of these provisions of the Convention, in respect of which reference is made to sections 76, 77, 79 et seq. of the above draft text. However, it notes that the above sections refer to requirements which are to be set out in the internal rules of the vessel, to be approved by the Ministry of Labour and Social Welfare, and that they form the legal basis for the establishment of standards relating to the inspection of food and catering

and the preparation of an annual report in this respect, as well as for the preparation of recommendations for shipowners. The Committee once again hopes that the necessary measures will be taken in the near future to regulate the provision of food and water on board ship, in accordance with these provisions of the Convention.

Article 3. The Committee notes that the Government's report contains no information on the application of this provision of the Convention. It hopes that its next report will contain information on the measures which have been adopted to secure the cooperation of the organizations of shipowners and seafarers in the application of the Convention and the results achieved in this respect.

Article 10. The Committee notes the list of companies authorized by the General Directorate of Consuls and Shipping to issue technical certificates covering the inspection undertaken in regard to the Convention, and the fact that around 90 per cent of the Panamanian Merchant Fleet possesses a current certificate of the inspection of crew accommodation and catering. The Committee would be grateful if the Government would supply a copy as soon as possible of the most recent reports published and indicate the bodies and persons concerned to which they are transmitted.

Article 11. The Committee notes the information concerning vocational training courses provided by the National Vocational Training Institute (INAFORP).

[The Government is requested to supply a detailed report in 1996.]

Convention No. 73: Medical Examination (Seafarers), 1946

Requests regarding certain points are being addressed directly to the following States: *Lebanon, Malta, Panama, Spain, Uruguay.*

Convention No. 74: Certification of Able Seamen, 1946

A request regarding certain points is being addressed directly to *Guinea-Bissau.*

Convention No. 77: Medical Examination of Young Persons (Industry), 1946

Algeria (ratification: 1962)

The Committee notes the adoption of Executive Decree No. 93-120 of 15 May 1993 concerning the organization of occupational medicine. It notes with satisfaction that the text gives effect to the provisions of the Convention to which the Committee's previous comments related. The Decree provides in particular that the purpose of the medical examination which all children and young persons must have is to ensure that they are medically fit for the work envisaged and to identify jobs on which they cannot be employed from the medical point of view (*Article 2, paragraph 1, of the Convention*); that the medical examination for fitness for employment shall be carried out by a qualified physician holding a diploma in occupational medicine and authorized to practise privately (*Article 2, paragraph 2*); that medical supervision of the fitness of a child or young person for the employment shall continue until he has reached the age of 18 years, with at least two examinations a year (*Article 3*); that medical supervision of fitness for employment, both on recruitment and later, for workers particularly exposed to high health risks shall continue without restriction as to age (*Article 4, paragraph 1*);

that the cost of equipping and operating occupational health services must be covered by the employers so that the child or young person, or his parents, are not involved in any expense (*Article 5*).

Spain (ratification: 1971)

The Committee notes the information supplied by the Government in its report. It also notes the comments made by the Trade Union Federation of Workers' Commissions (CC.OO).

1. *Article 2 of the Convention.* In its previous comments, the Committee noted that a number of provisions of the national legislation had fallen into abeyance, that there is no provision explicitly establishing the obligation of a thorough medical examination for fitness for work for the admission to employment of young persons, and it requested the Government to examine once again the problems raised in law and practice in the light of the Convention and to take the necessary measures to bring them into conformity with the provisions of this instrument.

In its reply, the Government reiterates in particular that, from the date of its publication, the Convention forms part of national legal provisions, which constitutes a legislative basis for the obligations contained in the instrument. It also notes that collective agreements have force of law, in conformity with Article 37(1) of the national Constitution and regulated in Title III of the Workers' Charter. Act No. 8/88 of 7 April 1988, respecting offences against the social order, and the related sanctions, gives legal guarantees for the application of such agreements, both in respect of petitions for their compliance before the bodies with jurisdiction in social matters, and of requiring the supervision of conformity with the terms and conditions of employment agreed therein. Finally, the Government points out that most of the types of employment covered by the Convention are prohibited for young persons under 18 years of age, in accordance with the Decree of 26 July 1957.

The Committee notes that Act No. 31/1995 on Prevention of Occupational Risks provides that, prior to the admission to employment of persons under 18 years of age, employers have to undertake an evaluation of the jobs in which they are to be engaged; this evaluation has to take into account, in particular, the specific risks for the safety, health and development of young persons which may arise out of their lack of experience, lack of awareness and incomplete development. This Act also stipulates that health supervision may only be carried out when requested by the worker, or when the worker gives consent, although an exception to this voluntary nature of health supervision will be made in cases in which such examinations are essential to evaluate the impact of conditions of work on the health of workers, or to verify whether the state of health of the worker may constitute a danger for the worker, for other workers or for other persons in relation with the enterprise.

The Committee notes that this Act does not provide explicitly for the obligation to carry out a thorough medical examination of the fitness for employment of young persons, which is necessary to give full effect to paragraph 1 of this Article of the Convention. The Committee hopes that necessary measures will be taken to bring the legislation and practice into conformity with the Convention.

2. *Article 1, paragraph 1.* In its report for the period ending 30 June 1991, the Government stated that young persons who are not engaged on account of an employer, including those who, without having the status of employees, are engaged in activities in family enterprises, are excluded from the scope of the provisions respecting medical examinations. The Committee hopes that in the final stage of the formulation of the draft

legislation for the prevention of occupational risks, the Government will take the necessary measures to ensure that the obligation to carry out a medical examination for fitness for employment will be extended to young persons working in industrial family enterprises.

3. The Committee noted the observations made by the CC.OO which have been transmitted to the Government, in which the CC.OO alleges that the national legislation provides for no type of medical examination for the admission to employment of young persons under the age of majority, and that as a result no medical examination is usually carried out in practice for these workers. According to the CC.OO, *Article 3, paragraphs 1 and 2, of the Convention* are not applied in respect of the medical supervision of fitness for employment of young persons until they have attained the age of 18 years and the repetition of the medical examination each year. *Article 3, paragraph 3*, is not applied with respect to the determination in national laws or regulations of the special circumstances in which a medical re-examination shall be required in addition to the annual examination in order to ensure effective supervision in respect of the risks involved in the occupation. The Committee requests the Government to keep it informed with regard to all the matters raised in the above comments.

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In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Azerbaijan, Comoros, Ecuador, Kyrgyzstan, Lebanon, Luxembourg, Paraguay, Tajikistan*.

Convention No. 78: Medical Examination of Young Persons (Non-Industrial Occupations), 1946

Algeria (ratification: 1962)

The Committee notes with satisfaction the adoption of Executive Decree No. 93-120 of 15 May 1993 on the organization of occupational medicine which gives effect to several provisions of the Convention to which previous comments related.

Spain (ratification: 1971)

1. *Article 2 of the Convention*. The Committee refers to the comments made in its observation on the application of Convention No. 77.

2. *Article 7, paragraph 2*. The Committee notes that the Government's report does not contain a reply to its previous comments. It hopes that in its next report the Government will supply full information on the following matters raised in its previous observation:

> The Committee noted that, according to the comments presented by the General Workers' Union (UGT) and the Trade Union Confederation of Workers' Commissions (CC.OO), failure to comply with the requirement of a medical examination for admission to employment for young persons is much more serious in the case of young persons who are engaged on their own account in non-industrial work, employed in domestic service or engaged on their own account or the account of their parents in itinerant trading or any other occupation carried on in the streets, because the legislation has not determined the measures of identification for ensuring the application of a system of medical examination to such young persons.
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> The Committee noted the indications contained in the Government's report concerning the sanctions established in Act No. 8 of 1988 for non-observance of the provisions of laws,

regulations or agreements which determine high or imminent risks for the personal safety or health of the workers; under the same Act, failure to carry out initial and periodic medical examinations for workers constitutes a serious violation.

The Committee observed that the general nature of such provisions does not preclude, but rather increases the need to establish explicitly by law, in conformity with the Convention, the requirement of a medical examination for fitness for employment of young people engaged in non-industrial occupations and to determine the measures of identification necessary for ensuring the application of the system to such young people.

The Committee hopes that the Government will take into consideration the matters which have been raised concerning the situation of national laws and practice with regard to the application of the Convention and that it will indicate the measures taken or envisaged to ensure that the Convention is observed.

3. The Committee notes the observations made by the Trade Union Federation of Workers' Commissions (CC.OO) which were transmitted to the Government, alleging that national legislation does not provide for any type of medical examination for access to employment of young persons and that as a result no type of medical examination of these workers is normally carried out in practice. According to the above Confederation, *Article 3, paragraphs 1 and 2, of the Convention* is not applied regarding medical supervision of the fitness for employment of young persons until they have attained the age of 18 years and the repetition of medical examinations every year; nor is *Article 3, paragraph 3,* applied with regard to the determination by national laws or regulations of the special circumstances in which a medical examination shall be required in addition to the annual examination in order to ensure effective supervision in respect of the risks involved in the occupation. The Committee requests the Government to provide information on all the matters raised.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Azerbaijan, Comoros, Ecuador, Greece, Kyrgyzstan, Lebanon, Luxembourg, Paraguay, Tajikistan.*

Convention No. 79: Night Work of Young Persons (Non-Industrial Occupations), 1946

Poland (ratification: 1947)

The Committee notes the information provided by the Government that inspections carried out by the State Labour Inspection in 1994 indicated the growing scale of law infringement in the field of night work of youth (108 cases of such employment were found in 44 employing establishments as compared with 58 cases in 20 establishments in 1993). The Government adds that these infringements were most often observed in bakeries, confectioners and shops open 24 hours a day.

The Committee requests the Government to continue supplying statistical data relating to such infringements in the field of night work of young persons in non-industrial occupations and information on all progress achieved in the implementation of the Convention.

Convention No. 81: Labour Inspection, 1947

Argentina (ratification: 1955)

Article 6 of the Convention. The Committee notes the text of Decree No. 993/91 on the National System of Administrative Profession (SINAPA) adopted in accordance with Act No. 22.140, of 10 January 1980, supplied by the Government in response to the Committee's previous request in connection with the application of this Article of the Convention.

Articles 20 and 21. The Committee notes the information provided by the Government in its report which indicates that the National Inspectorate has taken measures to obtain detailed data collected by the provinces through the Federal Council of Provincial Labour Administrations in order to publish an annual inspection report as of next year. The Committee hopes that such a report will be transmitted to the ILO within the time-limits set by Article 20 and that it will contain all the information required by Article 21.

The Committee is also addressing a request directly to the Government concerning other matters.

Bahamas (ratification: 1976)

Further to its previous comments, the Committee notes the general information on labour inspection activities provided by the Government in its most recent report, including samples of individual inspection visit reports, extracts from the Fair Labour Standards Act, and copies of two collective agreements. It also notes the information that the Government has received suggestions from both the representatives of the Commonwealth of the Bahamas Trade Union Congress (CBTUC), and the Bahamas Employers' Confederation (BECON) on the appropriateness of implementation of legislation and the establishment of a machinery for an inspectorate. The Committee also notes the information provided earlier by the Government that recommendations had been made for legislation to be adopted to give full effect to the provisions of the Convention. The Committee hopes that the necessary measures will soon be adopted and that the Government will report on progress made.

Articles 20 and 21 of the Convention. Further to its previous comments, the Committee notes again that no general report on the activities of the inspection services has been drawn up. It reiterates the importance that it attaches to the elaboration of annual inspection reports that contain information on the subjects set out in Article 21, and that are published and transmitted to the ILO within the time-limits set forth in Article 20. It trusts the Government will take the necessary measures to this effect shortly.

The Committee notes with interest the information contained in the Government's report that assistance for the training of inspectors was being sought from the ILO and hopes that such assistance will help in improving the situation.

Bolivia (ratification: 1973)

The Committee notes that, according to the Government's report for the period ending June 1993, it was considered practical to establish tripartite commissions to promote collaboration between officials of the labour inspectorate and employers and workers or their organizations (*Article 5(b) of the Convention*). However, it notes that the introduction of these structures required the raising of the level of legal and vocational training of labour inspectors (*Article 7*), which could be achieved through a programme of technical assistance from the ILO Regional Office in Lima in the context of one or more of the projects planned for 1994. The Committee would be grateful if the Government would indicate in its next report the results of the measures adopted to promote the above collaboration and provide the necessary training, as set out in these provisions of the Convention.

The Committee notes the information supplied by the Government in its report to the effect that the working conditions of labour inspectors have improved in comparison to those prevailing in 1989, except as regards urban transport, due to the limitations of the national budget. The Committee would be grateful if the Government would provide information on the improvements made in these working conditions and if it would indicate the measures which have been taken or are envisaged to furnish labour inspectors with the transport facilities necessary for the performance of their duties (*Article 11*).

The Committee would be grateful if the Government would indicate in its next report, taking into account the fact that the number of labour inspectors has to be sufficient to secure the effective discharge of the duties of the inspectorate, the manner in which it is ensured that workplaces are inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions (*Articles 10 and 16*).

The Committee notes that it has not been possible to transmit to the Office an annual inspection report, but that the Government, according to the information supplied in its report, proposes to give effect to *Articles 20 and 21* of the Convention as soon as possible by establishing a system of statistics covering the annual activities of the labour inspection services and by compiling a classified and quantitative annual report, which it hopes to formulate in the context of the technical assistance projects referred to above that were planned as of 1994. The Committee trusts that the Government will transmit to the Office as soon as possible an annual inspection report in accordance with these provisions of the Convention.

Brazil (ratification: 1989)

The Committee notes the information supplied in the Government's reports dated 25 October 1994 and 1 September 1995, as well as the various communications and the full documentation attached. The Committee also notes the report on the labour inspectorate for the period March to September 1995 provided by the Government on 29 November 1995.

1. In its previous comments the Committee referred to the observations made in 1991, 1992 and 1993 by the *Gaucha* Association of Labour Inspectors (AGITRA), the Association of Labour Inspectors of Minas Gerais (AAIT/MG) and the National Union of Labour Inspectors (SINAIT) on the application of the Convention, as well as on the difficulties encountered by the labour inspection service both with regard to conditions of work and the necessary staff for the discharge of its functions, and their related impact on the number of violations of labour legislation and on the combat against the most serious cases, such as forced labour (including child labour) and the retention of wages and other benefits due to employees (such as adequate food and accommodation). The Committee requested the Government to make comments on these observations.

The Committee notes with interest the measures adopted to improve the effectiveness of the inspection system, such as the commencement of the process of training and recruiting some 650 labour inspectors (notifications Nos. 5/94 and 3/95); the proposal to increase the current complement of inspectors, which is currently around 1,950 inspectors with the status of public servants, by the creation of 1,500 additional posts, of which 100 would be occupational physicians and another 100 occupational safety engineers; the adoption of rationalization measures in the activities and services of the labour inspectorate by means of, among other measures, the determination with the representative organizations of workers and employers of specific objectives and priorities for the work of the inspectorate, such as the inspection of registers of workers (the signature of workbooks) (Ministerial Decree *Portaria* No. 400/95) and contributions to the pension fund (FGTS) (Agreement/MTb/CEF/No. 001/95); the organization of calls for tenders (public tender competitions Nos. 1 to 4/94) for the purchase of computer equipment for the central and regional branches of the Ministry of Labour.

The Committee also notes the establishment of an Executive Group for the repression of forced labour and other measures (GERTRAF Decree No. 1538/1995), as well as the information provided by the Government in its report to the effect that priority is being given to the inspection of forced labour and work by children and young persons.

The Committee notes the statistical data for the inspection service in 1992 and 1993. The data show an increase in percentage terms in the number of enterprises inspected, the number of employees covered, the information and guidance provided to the public, certification activities, the offences reported and the dollar value of the fines imposed. Nevertheless, they also show a decrease in the number of inspectors, in the comments made in workbooks and their verification, and the value of the fines imposed. The number of inspectors declined in 20 states and only increased in one. This decline continued in 1994 (1,950 inspectors), although a greater number of enterprises were inspected (407,732). Nevertheless, the number of offences reported also decreased (100,632), while the value of the fines imposed increased (by about US$58 million to US$146 million). However, the fines actually paid stayed at a low level (US$22 million to US$27 million) between 1993 and 1994.

The Committee notes that, although the measures adopted by the Government represent important progress towards the resolution of the problems raised previously by the trade union organizations in their observations, it has not yet been possible to evaluate the effectiveness of the inspection system and its improvement, particularly with regard to the application of *Article 3, paragraph 1(a), and Articles 9, 10, 11, 16, 17 and 18 of the Convention*. The Committee would be grateful if the Government would provide information in its next report on the results achieved, particularly with regard to the inspection of work by young persons, forced labour, registers of workers, the comments made in workbooks and the contributions to the pension fund. The Committee would also be grateful if the Government would indicate the measures that are envisaged to improve the effectiveness in the recovery of fines that are imposed and the impact and adequacy of these fines on compliance with the relevant legal provisions.

The Committee notes with interest inter-secretarial instruction MTB No. 01/1994 establishing standards for inspection procedures in rural areas, which recognizes the need to implement a national policy concerning inspection in rural areas, with the objectives of guaranteeing the dignity of rural workers. The Committee notes that Brazil has not ratified the Labour Inspection (Agriculture) Convention, 1969 (No. 129).

2. The Committee notes the information provided by the Government in reply to the observations made by the Union of Workers of the Triunfo Chemical and Petrochemical Industries (SINDIPOLO). The Committee notes that the matter raised is more related to the problem of the right of workers' representatives to accompany inspection visits and the application of Convention No. 148.

3. The Committee notes the communication from the Trade Union of Workers in the Civil Construction Industry of the State of Sergipe, together with other trade unions from the same State, alleging that the representative of the Ministry of Labour inhibits the work of the labour inspectorate, resulting in a serious occupational accident in the port of Sergipe. The Committee notes the Government's detailed reply indicating that the competent administrative and judicial authorities are examining the facts of this complex case, but that they have not yet reached a decision on them. The above accident is reported to have been caused by defects in the maintenance of the equipment on a vessel. The Committee requests the Government to supply further information, in the light of the measures intended to improve the inspection system mentioned in its report, on the effectiveness of the labour inspectorate in the port of Sergipe in ensuring the application of the relevant legal provisions respecting working conditions and protection of workers (*Article 3, paragraph 1(a)*).

The Committee is raising other matters in a direct request.

Burkina Faso (ratification: 1974)

With reference to its previous comments, the Committee notes with satisfaction that section 218 of Act No. 11/92/ADP of 22 December 1992 issuing the Labour Code provides that the labour inspector shall bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions, thus giving effect to *Article 3, paragraph 1(c), of the Convention*.

The Committee is sending directly to the Government a request on a certain number of other matters.

Cameroon (ratification: 1962)

Article 13, paragraph 2(b), of the Convention. For many years the Committee has been requesting the Government to take the necessary measures to give effect to this Article of the Convention, which provides that labour inspectors shall be empowered to make orders requiring measures to be taken with immediate executory force in the event of imminent danger to the health or safety of the workers. Since 1978, the Government has been indicating that the necessary measures were being taken to amend the law. The Committee notes the Government's indication in its last report that these measures have not yet been taken and expresses the firm hope that the necessary modifications will be adopted in the near future.

Articles 16, 20 and 21. The Committee once again notes that no annual inspection report has been provided since those relating to the years 1978 and 1979. It recalls that these reports are an essential means of determining how the inspection system is working in practice and whether workplaces are being inspected as often and as thoroughly as necessary. It once again hopes that the Government will transmit to the Office, within the time-limits set out in the Convention, annual reports on the activities of the inspection services and that they will contain all the information required by the Convention.

[The Government is asked to report in detail in 1996.]

Central African Republic (ratification: 1964)

The Committee notes the information contained in the Government's reports for the periods ending respectively 30 June 1994 and 30 June 1995. It notes that the labour inspectorate, which has a staff of 37 labour inspectors, eight labour supervisors and a principal labour clerk, in addition to supporting personnel *(Article 10 of the Convention)*, has to operate under difficult material conditions as a result of which labour inspectors are not provided with suitably equipped offices or the transport facilities necessary for the performance of their duties. However, the reimbursement of the travelling expenses of inspectors should be considered in a forthcoming revision of the Labour Code *(Article 11)*. The Committee hopes that the Government will take the necessary measures to ensure that the inspection service operates as well as possible, particularly by taking advantage of the seminars, meetings and further training courses organized by the National School of Administration and the Magistrature and the African Regional Labour Administration Centre, so that workplaces are inspected as often and as thoroughly as is necessary *(Article 16)*. Furthermore, the Committee would be grateful if the Government would indicate in its next report the significance of the other duties entrusted to labour inspectors in comparison with their primary inspection duties *(Article 3, paragraph 2)*.

The Committee notes that no annual inspection report, containing full data on the matters referred to in *Article 21* of the Convention, has yet been transmitted to the Office. It hopes that the Government will take all the necessary measures to transmit such a report in accordance with *Article 20* of the Convention.

Chad (ratification: 1965)

The Committee notes the Government's report in which it states that the serious economic crisis experienced by the country does not allow it to respond to the needs of labour inspection. The Committee notes that the draft Labour and Social Insurance Code could be submitted to Parliament once again in 1995. Moreover, the Committee notes a communication dated 30 October 1995 from the Trade Union Confederation of Chad (CST), in which it emphasizes, among other matters, that the Government accords little importance to labour inspection in comparison with the other state services, which are provided in each financial year with adequate material resources for their operation. The CST alleges that the Government has never sought to resolve the problems related to the allocation of material resources, particularly as regards the lack of means of transport and qualified staff, which prevents the labour inspection services from being in a position to discharge their duties. The Committee hopes that the Government will take all the necessary measures to furnish labour inspectors with the indispensable material resources and staff so that workplaces can be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions *(Articles 10, 11 and 16 of the Convention)*, and that it will also provide information on the measures that have been taken or are envisaged in relation to the observations made by the CST.

Articles 12, paragraph 2, and 13, paragraph 2(d). With reference to its previous comments, the Committee once again expresses the hope that the Government will take the necessary measures to ensure that the above draft Labour and Social Insurance Code is adopted with amendments to bring it into conformity with these provisions of the Convention.

Articles 20 and 21. The Committee notes that no inspection report has been transmitted to the Office. It is bound once again to express the hope that the Government will take the necessary action to provide the Office with a copy of the most recent inspection reports, covering all the matters enumerated in Article 21 within the time-limits set out in Article 20.

Comoros (ratification: 1978)

The Committee notes the information provided by the Government in its report, as well as the information supplied in the reports on the role and situation of the labour inspectorate in Moroni and Anjouan. It notes that this information points to the paralysis of labour inspection in Ngazidja (Grand Comoros) and Ndzouani (Anjouan) and the need to adopt texts to give effect to the provisions of the Labour Code. The Committee hopes that the Government will give the necessary attention to resolving the problems raised in these reports so as to ensure that the very existence of labour inspection is not threatened and to ensure that the duties entrusted to labour inspectors can be discharged (*Articles 1 and 3 of the Convention*).

The Committee is raising other matters in a request addressed directly to the Government.

Côte d'Ivoire (ratification: 1987)

With reference to its previous comments, the Committee notes with satisfaction that section 91(4) of Act No. 95-15 of 12 January 1995, issuing the Labour Code, provides that inspectors of labour and labour legislation may, in cases of emergency and subject to jurisdictional or administrative appeal, make or have made orders requiring measures with immediate executory force to put an end to an imminent danger to the health or safety of the workers, thereby giving effect to *Article 13, paragraph 2(b), of the Convention*.

The Committee is addressing a request directly to the Government on a number of other matters.

Dominican Republic (ratification: 1953)

The Committee notes the changes made under the terms of the Labour Code of 1992 in the organization of the Labour Inspection Service. It notes with satisfaction that section 436 of the above Code gives effect to *Article 13, paragraph 2(b), of the Convention*.

1. The Committee also notes the measures adopted in recent years, to which the Government refers in its report. It notes in particular the establishment of the National Directorate of Inspection, as a result of which the hierarchical rank of the central inspection authority was raised *(Article 4)*. It also notes the statistics attached to the report which indicate a substantial increase in the number of activities undertaken by inspectors. The Committee would be grateful if the Government would provide details on the inspections carried out by sector, with an indication of the data relating to industry and commerce.

2. The Committee also notes that measures were taken to improve the technical and administrative support services for labour inspection. It would be grateful if the Government would provide further information on the impact of these measures, as well as on any other measure adopted to promote cooperation between the inspection services and other government services and public or private institutions engaged in similar activities *(Article 5(a))*. The Committee also notes that the inspection service maintains close collaboration with employers and workers and their organizations in the fields of guidance, information and conciliation. The Committee would be grateful if the Government would provide details of this collaboration, as well as on health and safety in enterprises *(Article 5(b))*.

3. The Committee notes that section 422 of the Labour Code, by providing that labour inspectors may not be dismissed, except for serious and inexcusable misconduct,

assures their stability of employment and independence of changes of government and of improper external influences *(Article 6)*. It also notes that measures were adopted to improve the social status of labour inspectors and that a beginning has been made in extending the scope of Act No. 14/91 respecting the public service with a view to applying it to labour inspectors, among other categories of officials. The Committee would be grateful if the Government would provide information in this respect.

4. The Committee notes that the number of labour inspectors has increased substantially, rising from 155 in 1992 to 212 in 1994, and that 32, of whom 15 are women *(Article 8)*, were recruited in 1994 following psychological and technical character tests and a competitive evaluation of their motivation for the work and their juridical skills. The Committee also notes that measures were adopted for the technical training of labour inspectors, thereby giving effect to *Article 7*. Nevertheless, the Government states in its report that the number of labour inspectors continues to be insufficient to ensure the full discharge of the service. The Committee trusts that the Government will continue to take the necessary measures to ensure that, in the near future, the number of labour inspectors is sufficient *(Article 10)* to ensure that workplaces are inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions *(Article 16)*.

5. The Committee notes with satisfaction the provision contained in section 443 of the Labour Code, which provides that the Dominican Social Security Institute and the General Directorate of Industrial Health and Safety of the Secretariat of State for Labour have to notify the Labour Department of the industrial accidents and cases of occupational disease which come to their knowledge *(Article 14)*. The Committee also wishes to recall that, although the notification of such accidents and diseases is not an objective in itself, but forms part of the more general objective of the prevention of employment injuries, its objective of permitting investigations to be carried out at the enterprises requires the rapid circulation of information between the enterprise, the above bodies and the National Directorate of Inspection. The Committee also notes the information provided by the Government that it requested the technical cooperation of the ILO to determine and classify occupational diseases, as well as to develop new industrial health and safety regulations. The Committee hopes that the government will inform it of the progress achieved in the adoption of a definition and classification of occupational diseases.

6. The Committee notes that, with the technical assistance of the ILO, which facilitated the structuring and computerization of basic administrative functions, reports on each activity performed by inspectors are included in the monthly summaries of each Local Labour Representation, in accordance with *Article 19*.

7. *Articles 20 and 21*. The Committee notes the statistical tables for 1994 attached to the Government's report. It notes that they do not contain data on the staff of the labour inspection service, the workplaces liable to inspection, industrial accidents (which are recorded separately) and occupational diseases, as required by section 443 of the Labour Code, which gives effect in law to *paragraphs (b), (c)* (with regard to workplaces liable to inspection), *(d), (e), (f) and (g)*, of Article 21. They do not contain (this is not required by the law), information on the laws and regulations relevant to the work of the inspection services *(paragraph (a))* nor data on the number of workers employed in the workplaces liable to inspection *(paragraph (c))*. The Committee trusts that the Government will take the necessary measures to ensure, not only in law, but also in practice, the application of these Articles of the Convention. It recalls that annual inspection reports have to be published (and not only prepared for the internal use of the

administration) and transmitted to the ILO, which makes it possible for the Committee to undertake an evaluation of the effectiveness of the inspection system.

The Committee is raising other matters in a request addressed directly to the Government.

Egypt (ratification: 1956)

Further to its previous observation, the Committee notes with interest the Government's report and the labour inspection and industrial safety reports for the first six months of 1993. It also notes that these reports are published in the form provided for by *Article 20 of the Convention* and that they contain the relevant subjects required by *Article 21* of the Convention. The Committee further notes the Government's indication that some inspection reports are prepared on a six-monthly basis and others on a yearly basis. The Committee draws the Government's attention to Article 20 which requires that a general report be published annually. It also refers to the explanations contained in paragraph 278 of its 1985 General Survey on labour inspection to express the desirability of publishing such reports in a single document, unless they result from the work of autonomous labour inspection services covering different branches of activity or different objects of supervision. It hopes the Government will take these points into account, so that the manner in which the Convention is being applied can be duly appreciated.

France (ratification: 1950)

In its previous comments, the Committee noted the observations made by a number of trade union organizations concerning the application of the Convention in relation to a project to reform the organization of the decentralized departments of the Ministry of Labour, Employment and Vocational Training, and following the adoption of Decree No. 94-1166, of 28 December 1994, respecting the organization of the decentralized departments of the Ministry of Labour, Employment and Vocational Training, giving effect to the reform (observations made by the CGT National Union of Social Affairs (UNAS) on 4 November 1994 and 1 February 1995; the French Democratic Confederation of Labour (CFDT) on 9 December 1994; and the National Federation of Labour Inspection Unions on 22 June, 16 September and 17 November 1994). The Committee noted in particular that, in its communication dated 1 February 1995, the UNAS stated that Decree No. 94-1166 raised various problems concerning the application of the Convention, particularly with regard to the functions of inspectors (*Article 3 of the Convention*), their stability and independence (*Article 6*), the number of labour inspectors (*Article 10*) and their material resources (*Article 11*).

The Committee notes that the CFDT (Federation of Social, Labour and Employment Protection) made new observations on 24 February 1995 and that the UNAS also did so on 2 October 1995. The documentation attached to this latter communication indicates that the following trade union organizations: CGT National Union of Social Affairs, the General Trade Union of Labour, Employment and Vocational Training Employees (FO), the CFDT (Federation of Social, Labour and Employment Protection), the National Trade Union of Labour Inspectors (SNIT), and the National Federation of Labour Inspection Unions (FNSIT), have brought an appeal to the Council of State to annul Decree No. 94-1166 referred to above, Decree No. 94-1167 of 28 December 1994 and a number of orders. The Committee notes that the Council of State has not yet issued a decision respecting the above appeal.

The Committee requests the Government to provide a copy of the decision of the Council of State when it is issued. It also requests it to provide a detailed report containing full information on the application of the Convention in law and practice, particularly with regard to the application of *Article 3, paragraph 2*, and *Articles 4, 6, 10 and 11 of the Convention*, especially in the light of the observations made by the trade union organizations.

[The Government is asked to report in detail in 1996.]

Guinea (ratification: 1959)

The Committee notes the information provided by the Government in its report, and particularly the indication that the observations made by the General Union of Workers of Guinea are not based on objective grounds. The Committee would be grateful if the Government would provide additional information on the proportion of the work of labour inspectors relating to conciliation and the calculation of severance payments, in relation to the overall duties entrusted to them, and particularly with regard to inspection visits and allied duties, so that the Committee can make a better assessment of the situation *(Article 3 of the Convention)*. The Committee also notes that the Government's report does not provide precise indications as to the status and terms and conditions of employment of labour inspectors, which would enable it to assess the independence and impartiality of labour inspectors in the discharge of their duties *(Article 6)*. The Committee requests the Government to provide detailed information on this matter.

The Committee is also addressing a request directly to the Government on other matters.

Guinea-Bissau (ratification: 1977)

With reference to its previous comments, the Committee notes with satisfaction the coming into force of the Regulations respecting the general inspectorate of labour and social security, approved by Decree No. 24-A/90, which give effect to *Articles 1 to 7, 9, 12 to 15 and 17 to 19 of the Convention*.

The Committee is addressing a request directly to the Government on a certain number of other matters.

Haiti (ratification: 1952)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> The Committee notes the information received from the Government in July 1992, although no report under article 22 of the Constitution has been received.
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> *Articles 10, 11 and 16 of the Convention*. Further to its previous comments, the Committee notes that the number of inspectors has increased (from 18 in 1986 to 65 in 1991); a survey was to be conducted to determine the number of establishments throughout the country; and the number of establishments visited in August 1991 was 520. The Committee hopes the Government will continue to describe measures taken or envisaged to make sure the inspection service is able to monitor the application of the relevant legal provisions.
>
> *Article 14*. Further to its previous comments concerning measures which would lead to occupational accidents and diseases being notified to the labour inspection services, the Committee notes that the administrative reform anticipated has not become effective. It hopes the Government will indicate any developments with a view to giving effect to this Article of the Convention.

> *Articles 20 and 21.* Further to its previous comment, the Committee notes that the Government has not published an annual report on the activities of the inspection services, but the necessary information is compiled each month. The Committee trusts the Government will supply annual inspection reports in the near future.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Iraq (ratification: 1951)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> Further to its previous comments made over several years, the Committee notes the particularly brief government report indicating that the Government will do its best in the future to publish annual labour inspection reports within the time-limits set in *Article 20 of the Convention* and to ensure that they contain all relevant information on the activities of the inspection service including on all those listed in *Article 21* and in particular Article 21(c) (statistics of workplaces liable to inspection), Article 21(d) (statistics of inspection visits), and Article 21(e) (statistics of violations and penalties imposed). It reiterates the need for the Government to submit reports on the application of this Convention in accordance with the report form approved by the Governing Body. The Committee trusts the Government will not fail to take the necessary measures very shortly to ensure the full implementation of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Jamaica (ratification: 1962)

Further to its previous observations, the Committee notes the Government's report and the 1993 *Statistical Bulletin* of the Ministry of Labour which has a wider coverage of inspection activities than similar previous reports. It also notes with interest the information that technical assistance from the Office was obtained and a consultant was engaged to draft an Occupational Safety and Health Act.

Article 13, paragraphs 2(b) and 3 of the Convention. The Committee recalls its previous comments that there are no provisions in national legislation empowering factory inspectors to require measures with immediate executory force in the event of imminent danger to the health and safety of workers. It notes with interest that section 48 (1), (2) and (6) of the initial draft Occupational Safety and Health Act that was examined by the Office would meet the requirements of this Article of the Convention in as far as the Act applies to all appropriate workplaces. It hopes the Government will be in a position to adopt a law that includes such provisions in the near future.

Article 14. Further to its previous comments, the Committee notes with interest that section 43 (2) and (3) of the same initial draft Occupational Safety and Health Act would meet the requirement of this Article of the Convention that the labour inspectorate be notified of cases of occupational disease.

The Committee hopes the Government will soon be able to adopt a law including such provisions as would meet the requirements of these Articles of the Convention.

The Committee is also addressing a direct request to the Government concerning other matters.

Lebanon (ratification: 1962)

The Committee notes with interest the texts of Directive No. 5/2 of 19 January 1995 and Directive No. 71/2 of 29 August 1995 of the Director-General of the Ministry of Labour, which provide that labour inspectors shall treat as absolutely confidential the source of any complaint, in accordance with *Article 15(c) of the Convention*, and that inspection reports shall contain all the information and data referred to in *Article 21*.

The Committee is addressing a request directly to the Government on a number of matters.

Libyan Arab Jamahiriya (ratification: 1971)

The Committee recalls the discussion which took place in the Conference in 1992 and the Government's report in which indications were given that the inspection machinery was undergoing reorganization and that new inspectors would be named after a period of training. It further notes the general information provided with respect to the number of inspections carried out and violations recorded in 1991 which were neither published (as required by *Article 20 of the Convention*) nor do they contain all the information required (by *Article 21*). It trusts measures will be taken shortly to ensure that the Convention is fully observed, and that annual labour inspection reports containing information on the work of the labour inspection services, including statistics on the subjects listed under Article 21, will be published and transmitted within the time-limits as required by Article 20.

The Committee further notes that the Government's report refers variously to labour inspectors, employment inspectors and municipal inspectors. The Committee would be grateful if the Government would indicate what are the status, conditions of service and of recruitment, the means used to establish the qualifications as well as any arrangements made to ensure the initial and subsequent training of these inspectors.

Mali (ratification: 1964)

The Committee takes note of the Government's report which refers to information supplied previously on the subject of the labour inspection situation. It also takes note of the project to support labour services with the general objective of dynamizing these services and strengthening their intervention capacity.

The Committee is sending directly to the Government a direct request on a number of points.

New Zealand (ratification: 1959)

The Committee notes the Government's detailed report for the period ending June 1995 and the enclosed extensive comments made by the New Zealand Council of Trade Unions (CTU) as well as the Government's reply to these comments. The Committee would be grateful if the Government would provide additional information on the points raised below.

Articles 1, 2 and 3, paragraph 1(a) and (c), of the Convention. The Committee notes the comments of the CTU which indicates that existing legislation that is enforced by the Inspectorate, far from being a comprehensive set of protections is scattered, fragmented, obsolete, poorly drafted and riddled with ambiguities or obscurity and that the effective application of the legislation is undermined. The CTU states that key elements of the legal provisions cited by the Government in its report as enforceable by the labour inspectorate are not enforced in the public sector or not at all. The Committee notes the Government's reply that the issue of the nature of the legislation enforced by the Labour Inspectorate is outside the scope of Convention No. 81, and as its ratification of this Convention extends only to Part I (Industry) it considers the Convention to be not applicable to the public sector.

The Committee acknowledges that New Zealand's ratification of Convention No. 81 excluded Part II on Labour inspection in commerce but that Articles 1 and 2 of the Convention require the maintenance of a system of labour inspection in industrial workplaces. It would therefore be grateful if the Government would indicate whether the Convention is fully applied to existing public sector industrial undertakings, and if not to provide information on the measures taken or envisaged to extend the scope of the system of labour inspection to this sector as provided for by the Convention. The Committee would also be grateful if the Government would provide additional information on whether both the safety and health and the general labour inspectorates still have the function of bringing to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions, and whether they carry out in practice such a function.

Article 3, paragraph 1(b), and Article 5(b). The Committee notes the CTU's comments that the Health and Safety Inspectorate does not produce and widely distribute a coherent and comprehensive body of information on the best means of compliance with the legal provisions. While the CTU acknowledges that there was a degree of informal and somewhat sporadic interaction on health and safety matters, no formal arrangements existed for collaboration between the inspectorates and employers, workers and their organizations. The Government's report indicates that despite the absence of formal arrangements it was government policy to consult the affected parties, workers, employers, or their organizations and that frequent liaison was maintained both at the national and at the local levels with these organizations. In its reply to the CTU 's comments the Government in addition states that the Information Centre currently answers approximately 10,000 to 12,000 telephone inquiries per month, ensuring employees and employers ready access to information about their statutory employment rights and updated and comprehensive information pamphlets are widely made available from various sources.

The Committee would be grateful if the Government would provide further information regarding the balance struck between advisory and supervisory functions of the inspectorates and on the steps taken to promote collaboration with employers and workers or their organizations in respect of priority setting and on the choice of the most effective approaches to these matters.

Article 5(a) and Article 14. The Committee notes that according to the CTU there is a lack of cooperation between the Inspectorate and the Accident Rehabilitation and Compensation Insurance Corporation (ARCIC) in that the ARCIC refuses to share information in its possession resulting in very significant disparity in accident statistics. The CTU considers that employers are clearly under-reporting accidents to the Inspectorate and this lack of cooperation is creating a significant obstacle to the effective enforcement of health and safety legislation.

The Committee hopes the Government will provide full particulars regarding the measures taken or envisaged to promote effective cooperation between the inspection services and other government services and public or private institutions engaged in similar activities. The Committee also hopes the Government will provide full particulars regarding the measures taken to give effect to the requirements of Article 14 of the Convention that the labour inspectorate be notified of industrial accidents and cases of occupational disease.

Articles 10 and 16. The CTU considers that 224 operational staff in the Health and Safety Inspectorate for 207,000 worksites was too small to adequately deliver an appropriate degree of oversight. It also considers that the composition of the operational staff was heavily weighted towards the traditional areas of health and safety enforcement such as in factories, construction and forestry and that there are only 19 operational staff in the general inspectorate for the enforcement of the bulk of the legal provisions on general conditions of work. The CTU is of the view that the Inspectorate has adopted a passive, reactive, complaint-based approach to enforcement instead of an active and vigorous one. It further states that the Inspectorate requires a specific complaint to be made by an identified complainant and does not act on anonymous information. Moreover the CTU considers the most rapid reaction time by the Inspectorate to such complaints was one month and that others had to wait up to seven months. The Government replies that it does not refuse to act on anonymous complaints but that it requires a reasonable amount of information in order to begin an investigation. The Government considers the situation for 1995 has considerably improved in that the average waiting time ranged from being immediate to two months.

The Committee considers that, even with the additional support of the newly set up Information Centre, the number of staff of the general labour inspectorate (19) is too low for the number of worksites involved (207,000) and that the Government's inspection policy should not be limited to responding to complaints only. The Committee requests the Government to take appropriate measures to increase the number of the operative staff sufficiently to ensure that workplaces are inspected as often and as thoroughly as is necessary. The Committee requests the Government to furnish additional information on any improvements made in the reaction time of the Inspectorate to complaints.

Article 12, paragraph 1(a). The Committee notes from the Government's report that section 144(1)(a) of the Employment Contracts Act 1991 and sections 31(1) and 35 of the Health and Safety in Employment Act 1992 provide only for inspectors or departmental medical practitioners who act as inspectors, to enter, at any reasonable hour, any premise or place of work (under section 144(1)(a) other than a dwelling-house where any person is employed or where the inspector has a reasonable cause to believe that a person is employed) at any reasonable hour.

The Committee wishes to point out that paragraph 1(a) of Article 12 of this Convention requires that inspectors should be empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection. The Committee draws the Government's attention to the importance it attaches to the recognition of the power of inspectors to enter establishments that are liable to inspection at any hour of the day or night. The Committee hopes the Government will provide information on how full effect is given to the requirements of the Convention in this regard.

Article 15(c). The Committee notes the CTU's comments that the confidentiality of the source of any complaint is not respected when an inspector only acts on a specific written complaint made by an identified complainant concerning breaches in respect of identified individuals. In most cases the CTU maintains the complainant and the individual are the same person. Except for the health and safety area, employers become immediately aware that the inspector's visit is in response to a complaint and that the identity of the complainant is almost always immediately apparent. The Government replies that the Inspectorate preserves the confidentiality of the complainant where possible, but that it cannot conduct an entire investigation without identifying the client. It gives the example of the impossibility of recovering holiday pay due to an individual without that individual's name being used.

The Committee draws the Government's attention to existing alternative means of investigations by generalizing the inquiry and examination of the undertakings' records to permit dealing with not only the complaint but also to possibly uncovering similar others cases. The Government is requested to furnish full particulars on any improvements made in this respect.

Article 17, paragraph 1. The Committee notes from the CTU's comments and the Government's reply that Crown agencies were not liable to prompt legal proceedings for violations of legal provisions. As mentioned in the Committee's comments under Articles 1, 2 and 3, paragraph 1(a) and (c), above, contrary to the Government's position the Convention applies to the public sector. The Committee requests the Government to take the necessary measures to give effect to this Article of the Convention.

Article 21. The Committee notes from the CTU's comments and the Government's acknowledgement that there was a lack of compliance with the requirements of this Article. The Committee hopes the Government will in the future communicate annual inspection reports containing all the particulars listed by this Article, in particular statistics of workplaces liable to inspection and the number of workers employed therein (Article 21(c)), statistics of violations and penalties imposed (Article 21(e)), statistics of industrial accidents (Article 21(f)), and statistics of occupational diseases (Article 21(g)).

Article 25, paragraph 2. The Committee notes from the comments of the CTU that in New Zealand there is no law or administrative practice that distinguishes between industrial and commercial undertakings for purposes of labour inspection and that it considers it timely for the Government to consider extending the application of the Convention to commercial undertakings as envisaged by this Article of the Convention. The Committee would be grateful if the Government would provide information in this regard.

The Committee points out that various services are available from the Office on labour inspection matters and in particular the provision of advice and information on relevant comparative experiences and solutions regarding questions raised in this observation.

Pakistan (ratification: 1953)

The Committee notes the information provided by the Government in its report of May 1995. It also notes the observations made by the All Pakistan Federation of Trade Unions of October and November 1994 on the application of the Convention, and recalls the observations presented by the same trade union in October 1993 as well as by the Pakistan National Federation of Trade Unions in October 1993 and by the All Pakistan Federation of United Trade Unions in January 1994.

1. *Articles 3, paragraph 1(a), 17 and 18 of the Convention.* The Committee notes that the All Pakistan Federation of United Trade Unions (APFOUTU) has alleged that the brick kiln workers are being paid less wages than the minimum wages fixed by the Government. It notes that according to the notifications by the Government of Punjab Minimum Wages Board (annexed to the communication by this trade union) a draft recommendation for the fixation of minimum rates of wages of workers in the brick kiln industry was published in the *Punjab Gazette* on 11 April 1989. The Committee further notes that the statistics of inspection under the Payment of Wages Act for some sectors contained in the 1990 Annual Consolidated Report of the Working of Labour Laws in Pakistan do not give information regarding inspection and enforcement in the area of activity of the brick kilns. The only statistics mentioned relating to "bricks and tiles" indicate that 13 factories employed 883 workers in Sindh, two employed 90 workers in

Balochistan, and for the whole of Pakistan 15 employed 973 workers. No statistics are given for the province of Punjab.

The Committee hopes that the Government will provide detailed information regarding the enforcement of payment of wages in conformity with minimum wages applicable in the brick kilns, including on the number of inspections carried out and on workers concerned, on warnings and advice given, proceedings engaged and any penalties imposed.

2. *Articles 5(b); 7, paragraph 3; 11.* The Committee hopes that the Government will provide information on the following matters in regard of which the All Pakistan Federation of Trade Unions has reiterated its observations: measures taken by the inspection services to collaborate with the representatives of trade unions; steps taken to provide the necessary education and training, as well as modern facilities, to the inspectorate so as to enable it to carry out its functions properly.

3. *Articles 3, paragraph 1(c), 12, 13, 14 and 15.* Further to its previous comments, the Committee notes that the All Pakistan Federation of Trade Unions stresses again that there is an urgent need to amend the Factories Act, 1934, the West Pakistan Shops and Establishments Ordinance, 1969, the Payment of Wages Act, 1936, and the Road Transport Workers Ordinance, 1961, in the light of these Articles of the Convention, and that the provisions of all labour laws should be applicable to all workers. The Committee recalls in this connection also the observation by the Pakistan National Federation of Trade Unions (PNFTU) that most establishments avoid inspection by maintaining the number of workers below the threshold for application of the law.

The Committee notes the indication in the Government's report that amendments to these laws have been examined by the tripartite task force on labour whose recommendations have been submitted to the Cabinet, which has constituted a Cabinet Committee to further examine the report before approval. The Committee trusts that the necessary amendments will soon be adopted, taking also into consideration the wishes expressed by the trade unions, and that the Government will provide full information on the provisions adopted.

4. *Articles 3, paragraph 1(a) and (b), 4, 10, 16, 17 and 18.* Further to the previous observations of the All Pakistan Federation of Trade Unions and the Pakistan National Federation of Trade Unions regarding action by provincial governments to ensure the implementation of labour laws on labour inspection, the Committee notes the following information provided by the Government:

- the provincial Department of Sindh has reported that recently the inspection machinery has been strengthened by placing almost all labour officers in Karachi city to undertake inspection under the Factories Act, 1934 and encouraging them to be active. The Committee hopes that the Government will report on the results of this initiative;
- the Government of North West Frontier Province, acting on the proposal of the Labour Directorate and in order to make implementation more effective, has empowered, in accordance with section 35 of the Industrial Relations Ordinance, 1969, all the three full-time labour courts in the province to try the prosecutions lodged by the field staff for violation of different labour laws. Referring also to its comments under point 1 above, the Committee hopes that the Government will provide a copy of the provincial government's notification as well as detailed information on the application of this decision, including on the number of prosecutions lodged, the violations on which they were based and copies of Labour Court decisions.

The Committee further notes the indication provided in the Government's report that the inspection staff faces great difficulty in carrying out inspection in the informal sector due to the lack of response from the employers and employees, but that they will continue to endeavour to implement the relevant laws. The Committee requests the Government to provide information on the laws applicable to inspection in the informal sector, and on information and advice given to employers and workers.

5. *Articles 20 and 21.* The Committee has taken note of the 1990 Annual Consolidated Report on the Working of Labour Laws in Pakistan. The Committee hopes that in future inspection reports will be published and transmitted to the ILO within the time-limits set out in Article 20 and contain all information listed in Article 21.

Peru (ratification: 1960)

The Committee notes the information supplied by the Government in its reports for 1993 and 1995. It also notes the observations made on 16 November 1995 by the Association of Labour Inspectors of the Ministry of Labour and Social Development.

1. *Articles 10, 16, 20 and 21 of the Convention.* With reference to its previous comments, the Committee notes that some statistical information has been provided by the Government concerning the activities of the labour inspectorate. The Committee deduces from the statistical table attached to the report that in the regions the current number of inspectors is lower, and sometimes distinctly lower, than the number of inspectors required. With reference to Articles 10 and 16 of the Convention, the Committee requests the Government to indicate the measures which have been taken or are envisaged to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspectorate and that workplaces are inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions.

The Committee also notes that, although the Government has provided some statistical information on the activities of the labour inspectorate, it is nevertheless bound to note once again that it has not received an annual report on labour inspection, and that this situation has remained unchanged since the ratification of the Convention 35 years ago. The Committee recalls that the preparation and publication of periodic inspection reports, as required by the Convention, is an essential means of determining the manner in which the instrument is applied and the remedial measures that need to be taken. The Committee trusts that the appropriate measures will be taken without delay to ensure that annual inspection reports, containing precise information on all the matters enumerated in Article 21, are published and transmitted to the ILO within the time-limits set out in Article 20.

2. The Committee notes the communication from the Association of Labour Inspectors of the Ministry of Labour and Social Development, dated 6 November 1995, alleging non-compliance with Articles 6, 9, 10 and 16 of the Convention.

According to the Association of Labour Inspectors, inspectors were obliged in November 1992 to submit once again to competitive examination for the jobs that they already held, even where they had been recruited as a result of a competition, under threat of being declared surplus to requirements. Furthermore, since 1992, six-monthly evaluations have been carried out which have resulted in the termination of the activities of various inspectors, despite their qualifications. The current number of inspectors has been reduced by 33 per cent of the total number of inspectors employed in the country in 1991 (70 inspectors for a population of 4 million workers, approximately), who also have to discharge administrative tasks as well as their inspection duties. As a result, only a minimum number of under 600 ordinary inspections have been carried out in 1995.

According to the Association of Labour Inspectors, taken together with the commencement of an administrative inquiry against ten labour inspectors, this is undermining the guarantee of stability of employment for the staff of the labour inspection services, and is aggravated by the negative effects on their independence of changes of government and improper external influences, as well as affecting the frequency and thoroughness required for inspections to be able to ensure the effective application of the relevant legal provisions.

According to the Association of Labour Inspectors, this situation is aggravated by the fact that the Directorate of Occupational Safety and Health has ceased to operate, with the result that part of its staff has been made redundant and the others have been reassigned to other services, and that as a consequence the labour inspectorate is no longer supported by physicians specializing in occupational health and safety or other professional technical specialists. According to the allegations, the labour inspection services have been paralyzed since 25 October and the staff have been informed verbally that none of the inspectors will continue to discharge their inspection functions, but that they will be replaced by persons contracted for that purpose, probably through an enterprise providing personnel services, and that the Ministry of Labour has met with this personnel to give "training chats" for a brief period not exceeding one week.

The Committee requests the Government to make its own comments on the allegations made by the Association of Labour Inspectors.

3. The Committee notes Presidential Decree No. 04-95-TR respecting the procedures of the labour inspectorate, which repealed Supreme Decrees Nos. 003-83-TR and 032-83-TR. It also notes the Basic Guide on Labour Inspection, approved by Ministerial Decision No. 036-95-TR. It is addressing a request directly to the Government concerning a number of matters related to the above texts.

Spain (ratification: 1960)

The Committee notes the detailed information provided by the Government in its report received in the ILO shortly before its session. It notes the observations by the Trade Union Confederation of Workers' Commission (CC.OO.) of 29 May 1995 and by the General Council of Workers (UGT) of 24 July 1995 and the Government's response to these observations contained in its report. The Committee also refers to the previous observations submitted by the CC.OO. and the UGT, the discussion in the Conference Committee in 1992 and the Government report of November 1993.

The Committee notes the labour inspection report for 1994 as well as the recent legislation supplied by the Government. Finally the Committee notes the information provided by the Government that the General Labour and Social Security Inspectorate is preparing a draft Act on Labour and Social Security Inspection which will regulate comprehensively the system of inspection and replace the legislation presently in force.

The Committee will examine at its next session all the information received. It hopes that the Government will provide the text of any new provisions on labour and social security inspection, and in particular the text of the draft Act when enacted.

Sri Lanka (ratification: 1956)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Further to its previous comments, the Committee notes the information provided in the Government's report.

Articles 10, 11, 13 and 16 of the Convention. The Committee notes the information that action is being taken to increase the number of labour inspectors by creating 50 new positions in order to strengthen the inspectorate and adapt it to the needs of the time. The Committee notes that no information is provided regarding the observations of the Jathika Sevaka Sangamaya concerning the persistent shortage of funding for inspectors. It recalls the observations previously made by the same workers' organization relating to the working conditions in the garment factories employing female workers and notes from the Government's report that 818 inspections took place in the garment manufacturing sector. The Committee notes the information provided regarding the observations of the Lanka Jathika Estate Workers' Union referring to the working conditions and special risks and hazards faced by workers in the growing number of self-employed small industries and the fast-growing industries in the free trade zones, using highly sophisticated equipment, dangerous chemicals and extra hours of work for women and young persons, including night work. The Government states that prior to the grant of approval for the establishment of such factories, their designs and plans are examined for safety and health of the working environment (including ventilation, temperature, safety exits in emergencies, and sanitary and other facilities). It also indicates that factory inspecting engineers including those attached to the respective District Factory Inspecting Engineers' Office, routinely inspect the safety and health of the working environment in these factories to ascertain that all high-risk machines and equipment are periodically examined and that protective devices are functioning effectively. The Committee notes the Government's reply to the observations of the Ceylon Workers' Congress (CWC) regarding inspections in the State Mining and Minerals Corporation and the State Gem Corporation. The Government states that labour inspectors and the Mineralogist Department's inspectors, medical officers, and licensed engineers are empowered to inspect, both routinely and on receipt of complaints, mines and quarries which are relatively small in size. The Committee would be grateful if the Government would continue to provide further information on all these points.

Articles 20 and 21. The Committee recalls its previous observation in which it had noted the information contained in the Labour Administration Reports for 1988, 1989, 1990 and 1991. It wishes to point out that these reports do not fully meet the requirements of Articles 20 and 21 of the Convention that annual labour inspection reports should be compiled and published within the time-limits specified and that they should contain all the particulars listed therein. It hopes the Government will take the necessary measures to ensure that annual labour inspection reports are published and sent to the Office as required by the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Suriname (ratification: 1976)

In its previous comments the Committee had expressed the hope that the Government would take measures to give full effect to *Article 14 of the Convention* (notification of cases of occupational diseases to the labour inspectorate) and *Article 15(b)* (obligation of inspections not to reveal secrets). The Committee notes with interest the information contained in the Government's report that draft legislation to revise the occupational health and safety legislation is being prepared with ILO assistance and that a national multidisciplinary committee to evaluate the system of reporting of occupational accidents and diseases has been established. The Committee hopes that the Government will soon be in a position to report on progress achieved.

Articles 20 and 21. Further to its previous comments, the Committee notes with interest the 1993 annual labour inspection report communicated with the Government's report, which gives comprehensive information on the activities of the inspection services. It notes however that the report does not contain statistics on occupational diseases. The Committee hopes that following the evaluation of the system of reporting of occupational accidents and diseases the Government will be in a position to include such statistics in the annual labour inspection reports *(Article 21(g))* and that it will continue to publish and transmit to the ILO these reports within the time-limits set forth in Article 20.

Syrian Arab Republic (ratification: 1960)

Article 20 of the Convention. Further to its previous comments, the Committee notes with interest that the annual inspection reports for 1992 and 1993 have been received. It hopes the Government will continue to publish and transmit annual reports for subsequent years within the time-limits set out in Article 20 of the Convention.

The Committee is addressing certain other points in a direct request.

United Kingdom (ratification: 1949)

The Committee notes the Government's reports for the periods ending June 1993 and May 1995. It also notes the observations by the Trades Union Congress (TUC) of November 1993 and the Government's response of December 1993.

The Committee is addressing a request directly to the Government on the points raised by the TUC.

Uganda (ratification: 1963)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Articles 1, 16, 20 and 21 of the Convention.* Further to its previous comments, the Committee notes that, despite its firm intentions to implement the Convention, the Government continues to face considerable financial constraints to provide logistics, transportation, typewriters, stationery for inspection visits to be conducted and annual labour inspection reports duly compiled and published, as required by the Convention. The Committee notes that the project document containing the 1988 ILO/JASPA advisory mission's recommendations to strengthen the labour inspectorate was submitted to the UNDP, but it did not attract any funding mainly because it was not within the priority themes of the country programme of the UNDP. It notes however that the ILO was able to respond partly by granting two scholarships for training on labour statistics at the ILO Turin Training Centre in March-April 1995. It also notes that the Government is seeking further assistance from the African Regional Labour Administration Centre (ARLAC) in Harare with the view to submitting a smaller project to strengthen the labour department. In the meantime the Government indicates that efforts are being made to compile and disseminate annual reports on labour inspection for 1990 and 1991. The Committee hopes that these efforts will soon enable the Government to report improvements in the situation of labour inspection in the country, and that it will continue to supply information available.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Zaire (ratification: 1968)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> In its previous comments, the Committee noted the need to prepare and publish annual inspection reports in accordance with *Articles 20 and 21 of the Convention*, and the difficulties encountered by the Government in the application of *Article 7, paragraph 3* (the vocational training of labour inspectors), *Article 10* (the number of labour inspectors), *Article 11* (the transport and other facilities furnished to labour inspectors) and *Article 16* (the frequency of inspections). It notes that the Government has supplied very incomplete reports on the activities of the inspection services for the years 1989, 1990 and 1991. These reports, supplemented by brief information in the report on the Convention, appear to confirm that the objective set out in the Convention, which is to ensure that workplaces are inspected as often and as thoroughly as necessary, despite the efforts of the labour inspectors, is still implemented in a very unsatisfactory manner. The Committee notes in this context that the ILO provided assistance to the Government in 1990 to retrain labour inspectors, and that the Government would like to see this assistance renewed, but that, in view in particular of the lack of resources of the inspection services, this assistance cannot by itself ensure that the Convention is applied. In this context, the Committee also notes the information contained in the annual report for 1991 concerning the impact of social and political events in the country and the hope placed in the National Sovereignty Conference by the workers.
>
> The Committee recalls the important contribution that labour inspection can make to economic development and the sound management of rare resources (see paragraphs 55 to 57 of its General Report of 1992). It trusts that the Government will find the means to overcome its difficulties in the application of the Convention by endeavouring, in particular, to supply the inspection services with the human and material resources which are essential for them, and that it will supply all the necessary information in this respect.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Angola, Antigua and Barbuda, Argentina, Bangladesh, Barbados, Brazil, Burkina Faso, Burundi, Comoros, Côte d'Ivoire, Cuba, Denmark, Djibouti, Dominican Republic, Ecuador, Finland, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Honduras, Jamaica, Kenya, Kuwait, Lebanon, Mali, Mauritius, Mozambique, Netherlands, Panama, Peru, Portugal, Solomon Islands, Suriname, Swaziland, Switzerland, Syrian Arab Republic, United Republic of Tanzania, Tunisia, Turkey, United Kingdom, Venezuela, Yemen, Zaire*.

Convention No. 87: Freedom of Association and Protection of the Right to Organize, 1948

Argentina (ratification: 1960)

The Committee notes the Government's report and regrets that it does not provide further information on the questions raised in previous observations.

In its previous observation, the Committee noted that a draft text to amend Act No. 23551 had been prepared with the participation of an ILO advisory mission, providing for the repeal or amendment of the following provisions which were contrary to the Convention: section 30 (which required excessive conditions for granting trade union status to unions representing workshops, occupations or categories of workers); section 28 (which, in order to contest the trade union status of an association, required the petitioning association to have a "considerably higher" number of members); section 38 (which permitted only associations enjoying trade union status, and not associations which were merely registered, to be retained for the purposes of trade union quotas); and section 39 (which exempted only associations with legal personality, and not associations which were merely registered, from taxation).

In addition, the Committee noted that the above draft text had not provided for the modification of the following provisions (recommended by the Committee of Experts for several years now): the excessive conditions set out in law for an enterprise union to obtain trade union status (section 29 of the Act, which provides that "a trade union at the enterprise level may be granted trade union status only when another first-level trade union and/or a union does not already operate within the geographical area or the area of activity or category covered"), nor the provisions which grant privileges to associations which have been granted trade union status in comparison with other associations as regards the representation of collective interests other than through collective bargaining (section 31(a) of the Act, which provides that "associations which have been granted trade union status have the exclusive right to defend and represent the individual and collective interests of workers") and as regards trade union protection (sections 48 and 52 of the Act, which provide that only the representatives of associations which have been granted trade union status enjoy special protection).

While noting that, in its report, the Government states that the draft text to amend Act No. 23551 was passed by the Chamber of Senators in November 1992 and is currently before the Chamber of Deputies for study by the relevant committee, the Committee regrets that after an extremely long period of time the Act in question has not been adopted. The Committee expresses the strong hope that the amending text will be approved as soon as possible with the aim of avoiding any possibility of partiality or abuse in the determination and consequences of greater representativity of trade union organizations. The Committee requests the Government to inform it on this matter in its next report.

The Committee is also addressing a request directly to the Government on various matters raised by two trade union organizations.

Azerbaijan (ratification: 1992)

The Committee notes with satisfaction that the Law on Trade Unions of 24 February 1994 allows for the possibility of trade union pluralism and guarantees the right to strike. However, the Committee notes that the Law contains a total ban on the political activities of unions and that the Government does not, in its report, set out in any specific detail the right of employers to organize. It therefore raises a number of points in a request addressed directly to the Government.

Barbados (ratification: 1967)

In its previous comments concerning section 4 of the Better Security Act of 1920 (Chapter 160) under which any person who wilfully breaks a contract of service or employment, knowing that he or she may thus endanger real or personal property, is liable to imprisonment or a fine, the Committee had noted the Government's statement to the effect that this provision had not been invoked for many years and that it was unlikely that its sanctions would be applied, since it was outdated.

The Committee once again recalls that if this provision is applicable in the event of a strike, it should be amended in order to limit the scope of restrictions which are enforceable with penalties to essential services in the strict sense of the term, namely those whose interruption would endanger the life, personal safety or health of whole or part of the population and that sanctions should not be disproportionate to the seriousness of violations (see General Survey on freedom of association and collective bargaining, 1994, paragraph 178).

In its latest report, the Government indicates that the Better Security Act has not yet been amended. As the Government has indicated its intention to amend the Act since 1984, the Committee asks the Government to indicate, in its next report, the measures taken or envisaged to bring the provision in question into conformity with the principles of freedom of association.

Belgium (ratification: 1951)

With reference to its previous comments on the need to ensure by law that objective, predetermined and detailed criteria are adopted in establishing rules for the access of workers' and employers' occupational organizations to the National Labour Council and the various public and private sector committees in which binding collective agreements are formulated, the Committee takes note of the Government's statement, once again, in its report that the Cabinet of the Minister of Employment and Labour has instructed the administration to prepare, as soon as possible, a bill on the representativity of occupational organizations.

The Government explains that the introduction of such legislative provisions has many ramifications and could lead to a review of the systems of representation in the joint management bodies of the social security system, in the various consultation bodies of the economic and social sectors (particularly in the gas and electricity sectors) and to a new approach to the composition and functioning of consultation bodies in the civil service or public corporations. Bearing in mind the scope and complexity of the subject, the Government indicates that several methodology outlines are envisaged and that consultations should be held, particularly with the ILO, in regard to assessment of the various formulas currently being studied.

Recalling that it has been commenting on this matter for many years, the Committee must remind the Government, as did the Committee on Freedom of Association, that it is not incompatible with the principles of freedom of association to establish a distinction between the most representative trade unions and the others if this distinction depends on objective, pre-established and specific criteria, in order to avoid any partiality or abuse. The Committee emphasizes the availability of the ILO to contribute to the adopting of legislation in conformity with the principles of freedom of association and expresses once again its firm hope that the Government will do its utmost to adopt in the near future a law containing such criteria on the representativity of occupational organizations. The Committee asks the Government to indicate any progress made in this respect in its next report.

Cameroon (ratification: 1960)

The Committee takes note of the Government's report which arrived too late for consideration at its February 1995 session, and of the statements made by the Government representative to the Conference Committee in June 1994 and the discussion which ensued.

1. *Article 2 of the Convention.* The Committee recalls that for many years it has pointed out that Act No. 68/LF/19 of 18 November 1968, which subjects the legal existence of a trade union or occupational association of public servants to the prior approval of the Minister of Territorial Administration, and section 6(2) of the Labour Code of 1992, under which persons forming a trade union that has not yet been

registered, and who act as if the said union has been registered, shall be liable to prosecution, are not consistent with the requirements of the Convention.

In regard to Act No. 68/LF/19 of 18 November 1968, the Government indicates, as did the Government representative to the Conference Committee in June 1994, that the law is being repealed and that a Bill has been conveyed to the Prime Minister for presentation to the National Assembly. It adds that the Minister of Territorial Administration has granted approval to several trade unions in the public sector, including the National Union of Technical Services Officials (SYNAFCIF), the National Union of Technical Services Staff (SYNAPTECH) and the National Union of Teachers of Cameroon (SYNEC). The Government states that these approvals are evidence of its will to move towards abolishing prior authorization.

In regard to section 6(2) of the Labour Code of 1992, the Government repeats its previous declarations that the matter was a mere administrative formality which existed for all civil acts and allowed the legal existence of the trade union to be noted. The Committee also notes that during the debate in the Conference Committee in June 1994 the fact was emphasized that it was difficult to imagine this registration as a mere formality since the National Union of Teachers in Higher Education had had its application refused.

The Committee notes in fact, on the one hand, that the Committee on Freedom of Association has expressed its concern at the Government's refusal since 1991 to recognize the National Union of Teachers in Higher Education (SYNES) and considers that Act No. 68/LF/19 of 18 November 1968 and section 6(2) of the Labour Code are contrary to the provisions of the Convention and, on the other hand, that the Conference Committee of June 1994 reminded the Government of the need to amend in the near future its law and practice to ensure application of the Convention. The Committee is therefore obliged to urge the Government once again to recognize the right of teachers in higher education, be they public servants or contract employees, to form unions of their own choosing, and to take the necessary steps to repeal Act No. 68/LF/19 of 18 November 1968, and section 6(2) of the Labour Code, so as to guarantee the right of all workers, including public servants, to establish professional associations *without previous authorization*, in accordance with this Article of the Convention.

2. *Article 5*. In regard to section 19 of Decree No. 69/DF/7 of 6 January 1969, under which trade unions or professional associations of public servants may not join a foreign professional organization without obtaining prior authorization from the Minister responsible for "supervising fundamental freedoms", the Government repeats the indications provided by the Government representative to the Conference Committee of June 1994 that since this Decree is issued under the Act of 1968, it will be brought into conformity with the Convention once the new Act on civil servant unions is promulgated. Recalling that Article 5 of the Convention gives all occupational organizations the right to affiliate freely with international workers' and employers' organizations, the Committee requests the Government to take the necessary measures, as soon as possible, to abolish prior authorization in order to make its law comply with the provisions of the Convention. In any event, the Committee would remind the Government that ILO technical assistance is available for the elaboration of a draft law concerning trade unions or occupational associations of public servants to be fully in conformity with the requirements of the Convention.

Central African Republic (ratification: 1960)

The Committee notes the Government's report.

The Committee recalls that its previous comments related to sections 1, 2 and 4 of Act No. 88/009 of 19 May 1988 (the requirement that a person who stands for trade union office has to be an employee in the same occupation, and the establishment of the single trade union system in the legislation) which are not fully in accordance with the requirements of the Convention, and to the restitution of the property of the former General Union of Central African Workers (UGTC).

The Committee notes with interest that the new Constitution of 14 January 1995 enshrines trade union pluralism and freedom of association. The Government indicates that laws will be enacted to give effect to these constitutional provisions.

In regard to the procedure for the reimbursement of the property of the former UGTC which became the Trade Union Federation of Central African Workers (USTC), the Committee notes the exchange of letters between the Government and the USTC Secretary-General dated 24 May and 1 June 1995 in which the Government requests an exact inventory of the property concerned with a view to seeking ways and means of solving the problem with the government authorities. The Government indicates in its report that the financial and economic difficulties to which the State is subject have not allowed the Government to compensate for the damages suffered by the former UGTC.

The Committee requests the Government to keep it informed in its next report of any change in the situation in either legislation or practice and, in particular, to indicate the measures taken to amend sections 1, 2 and 4 of the 1988 Act in order to bring them into conformity with the requirements of the Convention.

Chad (ratification: 1960)

The Committee notes the Government's report.

1. *Right to establish organizations without previous authorization.* The Committee notes with interest the Government's statement to the effect that the establishment, organization and functioning of trade union organizations are not governed by Ordinance No. 27/INT/SUR of 28 July 1962 regulating associations, but by the Labour Code (Act No. 7/66 of 4 March 1966). The Government adds that occupational trade unions have henceforth only to submit their by-laws in order to commence functioning and that supervision by the authorities is carried out subsequently, without bringing into question the existence of the trade unions. Moreover, the trade unions do not need to comply with the requirements of declaration and authorization by the Ministry of the Interior for their operation. In order to dispel any ambiguity in this respect, the Committee requests the Government to amend Ordinance No. 27 of 28 July 1962 regulating associations in order to lay down specifically that it does not apply to trade unions. It requests the Government to provide information in its next report on the measures taken in this respect.

2. *Limitation of the right to strike.* With regard to the question of repealing Ordinance No. 30 of 36 November 1975 suspending all strike action and Ordinance No. 001 of 8 January 1976 prohibiting public employees and workers whose status is assimilated to theirs from exercising the right to strike, the Committee notes the Government's assurances that the texts to repeal these Ordinances have been prepared and that their adoption is only a matter of time. The Committee also notes that Decree No. 096/PR/MFPT/94 of 29 April 1994, issuing regulations governing the right to strike in the public service, has been submitted to the judgement of the competent authorities and that the Government undertook in a communiqué dated 2 June 1994 to comply with their judgement. The Decree establishes a conciliation and arbitration procedure prior to the calling of a strike, as well as compulsory minimum service in certain public

services, the interruption of which would result in extremely serious disruption of the life of the community, particularly in respect of financial services, hospital services, postal and telecommunication services, television and radio, the central services of the Ministry of Foreign Affairs and Cooperation and the inter-prefectoral labour inspection services.

Emphasizing that the right to strike is an intrinsic corollary of the right to organize that is protected by the Convention, the Committee wishes to recall that it can only be restricted in exceptional cases; restrictions, or even prohibition, should be limited to public servants exercising authority in the name of the State, to essential services in the strict sense of the term, namely those the interruption of which would endanger the life, personal safety or health of the whole or part of the population, or in cases of acute national crisis (see General Survey on freedom of association and collective bargaining, 1994, paragraph 159). With regard to other services which are of public utility where an outright ban on strikes cannot be justified, the Committee is of the opinion that *a negotiated minimum* service may be established provided that it is genuinely and exclusively a minimum service, that is one which is limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of the service, and that workers' organizations should be able, if they so wish, to participate in defining such a service, along with employers and the public authorities (see the General Survey, op. cit., paragraph 161). The Committee trusts that all measures adopted to give effect to the right to strike will take into account the principles of freedom of association and requests the Government to provide it with a copy of any decision that is made concerning appeals brought before the competent authorities. In addition, the Committee once again urges the Government to transmit the texts repealing the above Ordinances of 1975 and 1976 as soon as they are adopted.

3. *Prohibition of any political activity by trade unions (section 36 of the Labour Code of 1966) and the obligation to have been resident in Chad for seven years in order to be elected to trade union office (section 41).* The Committee notes the Government's statement to the effect that a satisfactory response will be found in the draft Labour Code with regard to the prohibition of all political activity by trade unions. The Government adds that in the draft Labour Code it has lowered the period of residence required for foreigners to be able to take responsibility for the administration or direction of a trade union. On the first point, the Committee recalls that the development of the trade union movement and its broader recognition as a fully-fledged social partner make it necessary for workers' organizations to be able to express their views on political problems in the broad sense, and particularly to be able to make public their opinions on the Government's social and economic policy. On the second point, with regard to the possibility for foreigners to be able to accede to trade union office, the Committee considers that the national legislation should allow foreign workers to have access to these functions, at least after a reasonable period of residence in the host country. The Committee urges the Government to take the necessary measures to bring its legislation into full conformity with the requirements of the Convention and the principles of freedom of association by amending sections 36(2) and 41 of the Labour Code, so as to lift the ban on all political activity by trade unions and to reduce the period of residence required before foreigners can have access to trade union office. It also requests the Government to transmit the text of the new Labour Code when it is adopted.

[The Government is asked to provide full particulars to the Conference at its 83rd Session.]

Gabon (ratification: 1960)

With reference to its previous comments, the Committee notes with satisfaction the provisions of the new Labour Code (Act No. 3/94 of 21 November 1994) and of Act No. 18/92 of 18 May 1993 determining the conditions for the establishment and functioning of trade union organizations of public servants. These new Acts do not retain the provisions contained in sections 174, 239, 240, 245 and 249 of the former Code, which imposed a trade union monopoly through the obligation to join an organization designated by name in the law, and placed important restrictions on the right to strike. The Committee notes that the new Acts contain provisions establishing the possibility of trade union pluralism in both the private and public sectors (section 270), the right of employees to call strikes in the defence of their occupational, economic and social interests (section 342) and the possibility, in the event of a dispute, to have recourse to arbitration at the request of the two parties (section 369).

The Committee requests the Government to indicate whether the public servants' trade unions can organize at the federal level with unions from the private sector.

The Committee also notes with interest the Government's statement in its report that trade union pluralism exists and that, alongside the Trade Union Confederation of Gabon (COSYGA), other trade union confederations have been established both for workers in the private sector and for state employees. With regard to Act No. 13-80 of 12 June 1980 establishing a trade union solidarity tax deducted on behalf of COSYGA, the Committee notes that the new Labour Code prohibits any deductions from wages apart from those covered by collective agreements (sections 161 and 162).

The Committee is addressing a request directly to the Government on various aspects of the new Acts.

Ghana (ratification: 1967)

The Committee notes the information supplied by the Government in its report.

1. The Committee had noted in its previous observations that the National Advisory Committee on Labour (NACL) to the Minister for Employment and Social Welfare, had recommended that sections 11(3) and 12(1)(d) of the Trade Unions Ordinance of 1941 be amended and repealed, respectively, so that the Registrar no longer had extensive powers to oppose the registration of a trade union. The Committee would once again request the Government to take steps to give effect to the above recommendations so as to bring its legislation into conformity with *Article 2 of the Convention*. It further requests the Government to keep it informed of developments regarding the adoption of the above-mentioned amendments, and to provide it with a copy thereof.

2. The Committee had previously pointed out that section 3(4) of the Industrial Relations Act, No. 299 of 1965, which stipulates that the Registrar shall not appoint a trade union for any class of employees if there is in force a certificate appointing another trade union for that class of employees or any part of that class, was contrary to *Article 3*. Furthermore, the Committee had considered in its previous observation that a recommendation of the NACL that section 3(4) of the Industrial Relations Act be amended so as to enable the Registrar to issue collective bargaining certificates to unions and other workers' organizations with a two-thirds majority membership of organizations nationwide would not be sufficient to ensure the full respect of the right of unions to organize their activities as provided for in *Article 3*. It would therefore once again request the Government to take the necessary steps to amend section 3(4) of the Industrial Relations Act so that a union with the support of a simple majority of the

members of a bargaining unit be granted a certificate under this section. It requests the Government to keep it informed of any progress made in this respect.

3. The Committee notes that section 6 of the Emergency Powers Act, 1994 (Act No. 472) prohibits public meetings and processions in areas which had been under the state of emergency. The Committee recalls that freedom of assembly and demonstration constitutes a fundamental aspect of trade union rights (see 1994 General Survey on freedom of association and collective bargaining, paras. 35 to 37) and that the authorities should refrain from any interference which would restrict this right or impede the lawful exercise thereof, provided that the exercise of these rights does not cause a *serious* and *imminent* threat to public order. The Committee notes that the Emergency Powers Act was adopted in 1994 and therefore requests the Government to indicate in its next report whether this emergency legislation has been repealed. If not, it would request the Government to take steps to repeal this legislation immediately and to provide it with a copy of the repealing legislation.

Guatemala (ratification: 1952)

The Committee notes the information supplied by the Government representative to the Conference Committee on the Application of Standards in June 1995 and the ensuing debate. The Committee also notes the interim conclusions concerning, among other matters, the violation of basic human rights and obstacles to the establishment of trade union organizations, which were adopted by the Committee on Freedom of Association (Cases Nos. 1512, 1539, 1595, 1740, 1778 and 1786) and approved by the Governing Body at its 263rd Session in June 1995 (see 299th Report, paras. 402 to 427), as well as the report of the direct contacts mission between representatives of the Government and a representative of the Director-General, undertaken from 13 to 17 February 1995.

In the same way as the Committee on Freedom of Association, the Committee of Experts wishes to signal that the rights of workers' and employers' organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against these organizations' leaders and members and that it is for governments to ensure that this principle is respected (see paragraph 407 of the 299th Report, referred to above).

The Committee recalls that its previous comments referred to:

- the strict supervision of trade union activities by the Government (section 211(a) and (b) of the Labour Code);
- the requirement of Guatemalan nationality in order to form part of the provisional founding executive committee of a trade union or to be eligible for trade union office (new paragraph "d" of section 220 and section 223(b));
- the requirement of a sworn statement from members of the provisional founding executive committee of a trade union to the effect that, amongst other matters, they have no criminal record and are active workers within the enterprise or are working on their own account (new paragraph "d" of section 220);
- the requirement that candidates must be active workers at the time of election and that at least three of them must be able to read and write (section 223(b));
- the requirement of a majority of two-thirds of the workers in the enterprise or production centre (section 241(c)) and of the members of a trade union (section 222(f) and (m)) for the calling of a strike;
- the prohibition of strikes or work stoppages by agricultural workers at harvest time, with a few exceptions (sections 243(a) and 249);

- the prohibition of strikes or work stoppages by workers in enterprises or services in which the Government considers that a suspension of their work would seriously affect the national economy (sections 243(d) and 249);
- the possibility of calling upon the national police to ensure the continuation of work in the event of an unlawful strike (section 255);
- the detention and trial of persons who call for an illegal strike (section 257);
- the sentence of one to five years' imprisonment for persons who carry out acts intended not only to cause sabotage and destruction (which do not come within the scope of the protection provided by the Convention), but also to paralyse or disturb the functioning of enterprises contributing to the development of the national economy, with a view to jeopardizing national production (section 390, paragraph 2, of the Penal Code).

The Committee takes due note that, in accordance with the indications provided by the Government representative to the Conference Committee on the Application of Standards in June 1995, the Ministry of Labour will shortly convene a meeting with the social partners to analyse the comments made by the Committee of Experts with a view to overcoming the above divergencies. Nevertheless, the Committee notes with concern that the Government representative gave no assurance that such divergencies would be resolved and indicated that it is the Congress of the Republic that is competent to take legislative action. The Committee also regrets to note that the Government has not replied to its comments.

In the same way as the Conference Committee on the Application of Standards, the Committee of Experts urges the Government to take the necessary measures to guarantee in both law and practice that the provisions of the Convention are fully applied and that the principles of freedom of association are observed.

The Committee requests the Government to provide a detailed report on the specific measures adopted in this respect.

[The Government is asked to supply full particulars to the Conference at its 83rd Session.]

Haiti (ratification: 1979)

The Committee notes with regret that for the second consecutive year the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee recalls that it has been requesting the Government for several years to repeal or amend section 236bis of the Penal Code, which requires that government approval be obtained to establish an association of more than 20 persons; section 34 of the Decree of 4 November 1983, which confers wide powers on the Government to supervise the trade unions; and sections 185, 190, 199, 200 and 206 of the Labour Code, which impose restrictions on strikes; as well as to give legal recognition to the right to organize of public servants, in order to bring its legislation into conformity with section 35(3) and (4) of the 1987 Constitution, which provides constitutional guarantees of the freedom of workers in the public and private sectors and recognizes their right to strike, and to bring it into conformity with the Convention.
>
> The Committee notes that the Government gave a formal assurance that section 236bis of the Penal Code would be repealed and that tripartite meetings had been held to prepare a new Labour Code with a view to implementing the necessary reforms. The Committee urges the Government to indicate in its next report the measures which have been taken to guarantee that the requirements of the Convention are respected.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Jamaica (ratification: 1962)

The Committee notes the information provided by the Government in its report.

The Committee recalls that for several years its previous comments concerned the necessity to amend sections 9 and 10, paragraphs 1, 2, 4, 5 and 8 of the Labour Relations and Industrial Disputes Act No. 14 of 1975, as amended in 1978, which empower the Minister to submit an industrial dispute to compulsory arbitration and hence to terminate any strike. The Committee has noted in the past that the list of essential services contained in the legislation is too broadly defined and that the notion of a strike which is liable seriously to jeopardize the interests of the nation can be interpreted very widely.

The Government indicates that the Labour Relations and Industrial Disputes Act is being revised and that the right to strike is one of the key areas examined. The Government adds that before deciding what sectors should be regarded as essential services, it has to carefully examine the dependence on the economy of these services.

The Committee reiterates that the right to strike is one of the essential means which should be available to workers and their organizations to promote and defend their economic and social interests. The Minister of Labour should therefore only be able to have recourse to the courts in the following circumstances: (1) in the event of strikes in essential services in the strict sense of the term, namely those the interruption of which would endanger the life, personal safety or health of the whole or part of the population; or (2) in the event of total and prolonged stoppage of work which might constitute an acute national crisis; or (3) at the request of the two parties concerned (see 1994 General Survey on freedom of association and collective bargaining, paragraphs 152, 154, 159 and 160).

The Committee urges the Government to provide information in its next report on the outcome of the reviewing process of the Labour Relations and Industrial Disputes Act and to indicate the measures taken to amend its legislation in order to bring it into conformity with the principles of freedom of association.

The Committee is also addressing a request directly to the Government concerning some other points.

Kuwait (ratification: 1961)

The Committee notes the Government's report and the discussion which took place once again in the Conference Committee in 1995.

The Committee recalls that for several years it has been drawing attention to a number of discrepancies between the Labour Code (Act No. 38 of 1964) and the Convention, in particular:

(1) the prohibition on establishing more than one trade union for a given establishment or activity and the membership requirement of at least 100 workers in order to establish a trade union (section 71 of the Act) and ten employers to form an association (section 86);

  — the requirement that trade unions may federate only if they represent the same occupation or industries producing similar goods or providing similar services (section 79);

  - the prohibition on organizations and their federations from forming more than one general confederation (section 80);
  - the system of trade union unity instituted by sections 71, 79 and 80 read together;

(2) the requirement that non-Kuwaiti workers must reside in Kuwait for five years before joining a trade union; the requirement that a certificate of good reputation and good conduct be obtained in order to join a union; the denial of the right to vote and to be elected of trade unionists who are not of Kuwaiti nationality, except to elect a representative whose only right is to express their opinions to the trade union leaders (section 72);

(3) the prohibition on trade unions from engaging in any political or religious activity (section 73);

(4) the requirement that a certificate must be obtained from the Minister of the Interior stating that he has no objection to any of the founder members before a trade union may be established; and the requirement that at least 15 members must be Kuwaiti before a union may be established (section 74);

(5) the wide powers of supervision of the authorities over trade union books and records (section 76);

(6) the reversion of trade union assets to the Ministry of Social Affairs and Labour in the event of dissolution (section 77);

(7) the restriction on the free exercise of the right to strike (section 88);

(8) the exclusion from the scope of the Code of employees of the State and public sector, fixed-term workers employed by the State under the regulations concerning the employment of Indian and Pakistani citizens, domestic workers and employees holding similar positions, and seafarers (section 2) which results in denial of the right to organize of these categories of workers.

In a previous observation, the Committee noted that a draft labour code repealing several provisions contrary to the Convention (sections 71, 72, 73, 74 and 79) was being prepared and was to be submitted to the competent authority. A Government representative had even declared to the Conference in 1992 that his Government was going to endeavour to submit full information on the application of the Convention, including the revision of the Labour Code of 1964, which was one of the priorities of the competent authority, in order to reorganize the society of the country.

The Committee, like the Committee on the Application of Standards of the Conference in June 1995, notes the assurances given by a Government representative concerning respect for human rights and the determination to guarantee workers' rights. It observes with concern that no measure has been taken to reduce the considerable gap between domestic legislation and the guarantees provided by the Convention, particularly in regard to the right to association of foreign workers. The Committee urges once again the Government to ensure that domestic legislation should give *all workers and employers, without distinction whatsoever*, whether they are nationals or foreigners, public servants, domestic workers or seafarers, the right to join occupational organizations of their choice to defend their interests, including for workers, by striking, and for workers' and employers' organizations the right to join federations or confederations, to elect their representatives freely and to organize their management without interference from the public authorities in accordance with *Articles 2, 3, 5 and 6 of the Convention*.

The Committee recalls that ILO technical assistance is available for the drafting of legislation in conformity with the requirements of the Convention and requests the Government to communicate in its next report information on any progress made in the application of this Convention.

[The Government is asked to supply full particulars to the Conference at its 83rd Session.]

Latvia (ratification: 1992)

The Committee notes with satisfaction that the Law on Trade Unions of 13 December 1990 allows for the possibility of trade union pluralism and guarantees the right to strike. It however notes that the registration of workers' organizations under this law as well as the registration of employers' organizations under the Law on Public Organizations and their Associations of 15 December 1992 is subject to certain conditions which may affect this possibility in practice. It also notes that the Law on Public Organizations and their Associations contains certain other provisions which are not fully compatible with the rights enshrined in this Convention. It therefore raises a number of points in a request addressed directly to the Government.

Liberia (ratification: 1962)

The Committee notes with regret that for the sixth year in succession the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes that there has been no change in the legislative situation, which has been the subject of its comments for many years.
>
> The Committee recalls the need to amend or repeal Decree No. 12 of 30 June 1980 which prohibits strikes, section 4601-A of the Labour Practices Law which prohibits agricultural workers from joining industrial workers' organizations, and section 4102, subsections 10 and 11, of the Labour Practices Law which provides for the supervision of trade union elections by the Labour Practices Review Board. The Committee observes that these provisions are still in force and that they are contrary to *Articles 2, 3, 5 and 10 of the Convention*.
>
> Furthermore, the Committee recalls that the right to associate of workers in state enterprises and the public service is still not recognized in the national legislation, despite the Government's assurances in previous reports that the Civil Service Act was to be amended in order to give statutory effect to the right of the workers in this sector to establish and join organizations of their own choosing, in accordance with *Article 2 of the Convention*.
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> However, in its previous observation, the Committee noted from the information furnished by the Government to the Conference Committee in 1987 that, in practice, there are organizations of public servants and of rural workers, that strikes have occurred without sanctions being applied and that trade union elections are only supervised by the Ministry of Labour at the invitation of the trade union organization in question.

Accordingly, the Committee again urges the Government to take the necessary measures in the very near future to amend its legislation in respect of the above matters which have repeatedly been the subject of its comments.

Madagascar (ratification: 1960)

The Committee notes the Government's report and recalls that its previous observations related to the following:

1. **Right of workers, without distinction whatsoever, *including seafarers*, to establish and to join organizations.** The Committee notes that the Government indicates in its report that the Constitution of 1992 recognizes the right of all workers, without distinction whatsoever, to form trade unions and adds that, since this is a basic text, the provisions are of general scope and apply to seafarers. The Committee, for its part, has read the text of the 1992 Constitution and observes with interest that section 31 indeed provides that the State recognizes the right of all workers to defend their interests by trade union action, and in particular by forming and joining a trade union freely. The Committee has already noted that national legislation gives seafarers certain rights relating to the right to organize (the right to conclude collective agreements to determine their wages, section 3.5.03 of the Maritime Code, as amended in 1966; the procedure for the collective settlement of disputes and the right to strike following an opposition to an arbitration award, Act No. 70-002 of 23 June 1970 respecting individual and collective disputes in the Merchant Navy and its implementing Order No. 3012-DGTOP/SSM of 1970). The Committee would be grateful if the Government would send in its next report the text currently in force of the Merchant Shipping Code (since the Labour Code in the process of being drawn up continues to exclude workers governed by the former (section 1)), thus permitting the Committee to determine whether the right to organize for seafarers is indeed recognized.

2. **Requisitioning of persons.** While noting that the Government indicates in its report that during the period covered by the report it has not exercised the right to requisition persons set out in Act No. 69-15 of 15 December 1969, the Committee nevertheless recalls that the conditions giving rise to the right to requisition persons have too broad a scope to be compatible with the principles of freedom of association. The Committee therefore requests the Government to contemplate amending its legislation, in particular sections 20 and 21 of Act No. 69-15, so that they authorize the Minister to resort to this procedure only to bring to an end a strike in essential services in the strict sense of the term, that is those whose interruption would endanger the life, personal safety or health of the whole of part of the population, or in the case of public servants exercising authority in the name of the State or in the event of a strike, the extent and duration of which are liable to give rise to an acute national crisis. The Committee requests the Government to keep it informed of the measures taken or envisaged in this matter.

Myanmar (ratification: 1955)

The Committee notes the written and oral information supplied to the Conference Committee in 1995, as well as the detailed discussion which took place therein. It must, however, express its regret that it has not received a report from the Government, as requested in consequence of the Conference Committee's conclusions.

The Committee would recall that it has been commenting upon the serious incompatibilities between the Government's law and practice, on the one hand, and the Convention, on the other hand, for 40 years now. In particular, the Committee has been asking the Government to take the necessary measures to ensure the right of workers to establish, without previous authorization, and to join, subject only to the rules of the organization concerned first-level unions, federations and confederations of their own choosing for furthering and defending their interests and to ensure the right of any such first-level union, federation or confederation to affiliate with international organizations *(Articles 2, 5 and 6 of the Convention)*.

The Committee takes due note of the Government's indication at the 1995 Conference Committee of its interest in obtaining advice from the Office on the draft Trade Unions Act in order to contribute towards its efforts to apply the freedom of association principles, as well as its expression of a genuine desire to cooperate with the ILO and its commitment to harmonize law and practice with Convention No. 87. Nevertheless, as no concrete developments in law or practice have as yet been communicated to the Office, the Committee must once again urge the Government to adopt, as a matter of urgency, the necessary measures to ensure fully the right to organize, and the right to affiliate with international organizations, without impediment.

[The Government is asked to supply full particulars to the Conference at its 83rd Session.]

Niger (ratification: 1961)

Article 3 of the Convention. The right of workers' and employers' organizations to elect their representatives in full freedom.

The Committee, noting with regret that the Government's report contains no new information, is bound once again to recall that sections 6 and 25 of the Labour Code of 1962, which provide that members responsible for the administration or management of unions or federations must be nationals of Niger, are liable to restrict the full exercise of the right guaranteed by this Article of the Convention.

The Committee once again requests the Government to amend its legislation in the near future so that foreign workers and employers have access to trade union office, at least after a reasonable period of residence in the country (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 118). The Committee recalls that the amendment envisaged, of requiring ten successive years of work in order to have access to trade union office, *in no way constitutes a reasonable period* and expresses the firm hope that the Government will take into account its comments when the planned revision of legislation takes place.

The Committee once again requests the Government to provide information in its next report on any progress achieved in bringing the legislation into greater conformity with the Convention.

Nigeria (ratification: 1960)

The Committee notes the Government's report and the declaration of the Government representative to the Conference Committee on the Application of Standards in June 1995, the discussion which followed and the resulting special paragraph in the Conference Committee's report. The Committee also notes the conclusions of the Committee on Freedom of Association in Case No. 1793 (300th Report of the Committee, approved by the Governing Body at its 264th Session (November 1995)). It recalls that the serious and fundamental discrepancies between national legislation and practice and the Convention concern the following points:

(a) the administrative dissolution of the executive council of the Nigerian Labour Congress (NLC) (Decree No. 9 of 18 August 1994);

(b) the administrative dissolution of the executive councils of the National Union of Petroleum and Natural Gas Workers (NUPENG) and the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) (Decree No. 10 of 18 August 1994), the members of the executive councils of NLC, NUPENG and PENGASSAN having thus been administratively revoked and replaced by government-appointed administrators;

(c) the single trade union system established by law under which any registered trade union is compulsorily affiliated to the Nigerian Labour Congress, the only central organization which is designated by name; the establishment of a single trade union for each category of workers in accordance with a pre-established list; and the excessively high minimum number of 50 workers to form a trade union (section 3(1) and (2) and section 33(1) and (2) of the Trade Unions Act of 1973 as modified by Decrees Nos. 22 of 1978 and 17 of 1986);

(d) broad powers of the Registrar to supervise the accounts of trade unions at any time (sections 42 and 43 of the Trade Unions Act);

(e) non-recognition of the right to organize of certain categories of workers (employees in the customs service, in mints, in the Central Bank of Nigeria and in the External Telecommunications Company) (section 11 of the Trade Unions Act);

(f) the possibility of restricting the exercise of the right to strike through the imposition of compulsory arbitration beyond essential services in the strict sense of the term (section 7 of Decree No. 7 of 1976 on industrial disputes);

(g) the restructuring of industrial/workers unions imposed by Government Notice No. 44 of 31 August 1993 which resulted in the restructuring of 41 previously registered industrial unions into 29 workers' unions in accordance with a pre-established list, thus confirming the trade union monopoly imposed by law.

The Committee takes note of the fact that the Government, acting upon the Committee's previous comments, has repealed Government Notice No. 44 of 31 August 1993 (published in the *Official Gazette* No. 24, Vol. 80) which imposed the restructuring of industrial/workers unions by issuing Government Notice No. 2 of 8 February 1995 published in the *Official Gazette*, Vol. 82. The Committee nevertheless observes the serious discrepancies which remain between the legislation and practice and the provisions of the Convention.

The administrative dissolution of the executive councils of the NLC, NUPENG and PENGASSAN contrary to Article 4 of the Convention

The Committee notes that the Government representative to the Conference Committee in June 1995 had indicated that Decrees Nos. 9 and 10 were of a transitionary character and that they would be repealed as soon as the committees formed by the unions had organized the elections of union delegates to the national Conference. In its report, the Government adds that elections were held at the branch and unit levels of NUPENG and PENGASSAN over the last four months and that the sole administrators responsible for the management of the unions held 650 elections at the unit level and 195 at the branch level, that is 845 elections in all.

The Committee notes with regret the Government's indication that the trade union elections have been organized by the *sole administrators* responsible for the management of the *unions*. It recalls that, in ratifying this Convention, the Government has undertaken to guarantee that workers' organizations elect their representatives in *full freedom without interference by the public authority* (Article 3, paragraph 2, of the Convention).

More generally, the Committee notes with concern that the Committee on Freedom of Association has referred in its 300th Report of November 1995 to the fact that the government-appointed sole administrator is still managing the NLC. The unions have demonstrated their dissatisfaction with the loss of their independence due, in particular, to the attempts made by the authorities to move the NLC headquarters from Lagos to Abuja and to the delay in holding the union elections.

The Committee, like the Committee on Freedom of Association in its recommendations, expresses the firm hope that the Government will: immediately repeal Decrees Nos. 9 and 10; allow independently elected officials to exercise their trade union functions once again; restore to the executive councils of the NLC, NUPENG and PENGASSAN access to their respective trade union premises and bank accounts and; withdraw suspension of the check-off facilities upon the request of individual workers and in respect of the unions which they have freely designated.

The powers of the Registrar to supervise the accounts of trade unions contrary to Article 3(1) and (2)

The Government representative indicated that the Registrar does not have any powers in this regard. In its report, the Government points out that a law concerning check-off facilities was adopted in 1990 (the Labour Act (Cap. 198) of 1990). According to the Government, this law confers a moral and statutory obligation on the Government to ensure that the workers' money thus deducted and turned over to the unions is properly used in the interest of the union members. The audited accounts are sent to the Registrar for information and scrutiny. Nevertheless, the unions themselves name the accountants without interference from the Registrar.

The Committee notes that sections 39 and 40 of the Labour Act continue to confer on the Registrar the power to supervise the union accounts *at any time*. The Committee recalls the importance it places on the right of workers' organizations to organize their administration and activities without interference from the public authorities. In the Committee's opinion, supervision should be limited to the submission of periodic reports and interference should only be permitted in the case of complaints and on the condition that there is a right to appeal to the competent judicial authority.

Trade union monopoly established by law contrary to Article 2

The Government indicates in its report that the Third Schedule of the Trade Unions Act of Nigeria, amended in 1990, Cap. 437, recognizes 70 trade unions. Moreover, section 5 of the Act provides that any group of workers who form themselves into a union in satisfaction with this provision can be registered as a trade union. The Government adds that 15 unions have been registered between 1978 and 1994, thus bringing a total of 85 unions currently registered. It concedes that 41 unions are affiliated to the NLC but, according to the Government, this does not mean that the 44 other unions outside the NLC are not recognized.

The Committee has already noted that, under the Act, senior staff unions are not required to be affiliated to the NLC. None the less, the Act continues to impose affiliation to the NLC for the 41 trade unions designated by name on the pre-established list. The Committee once again requests the Government to amend its legislation to ensure for *all workers without distinction whatsoever* the right to form and join organizations of their own choosing including outside the established trade union structure if they so wish.

Taking note of the latest information and comments contained in the Government's report, the Committee observes that the Subcommittee of the National Labour Advisory Council was assigned the responsibility of reviewing and updating the Trade Unions Act, the Trade Disputes Act, the Trade Disputes Essential Services Act, the Labour Act, the Wages Boards and Industrial Councils Act, the Workman's Compensation Act and the

Factories Act. The Government adds that the National Labour Advisory Council will study the Subcommittee's report, including the proposed amendments concerning the discrepancies relative to the Convention, and that it will make appropriate recommendations for the promulgation of new labour legislation.

The Committee firmly hopes that, in the light of the above indications, the Government will rapidly take the necessary measures with respect to all the points raised to bring its legislation and practice into full conformity with the requirements of the Convention which it has freely ratified.

[The Government is requested to supply full particulars to the Conference Committee at its 83rd Session.]

Panama (ratification: 1958)

The Committee notes the information provided in the Government's report and recalls that its previous comments referred to:

- the exclusion of public servants from the scope of the Labour Code and consequently from the right to organize (section 2(2) of the Labour Code);
- the requirement, under section 344 of the Code, of too high a number of members in order to establish an occupational organization (50 workers and ten employers);
- the requirement that 75 per cent of the members of a trade union are Panamanian (section 347 of the Code);
- the requirement that only those of Panamanian nationality may serve on the executive board of a trade union organization (article 64 of the Constitution and section 369 of the Code); and
- the automatic removal from office of a trade union officer in the event of his dismissal (section 359 of the Code).

The Committee notes with satisfaction that the new Act No. 44 laying down standards to regularize and modernize labour relations, issued on 12 August 1995, amends and repeals various provisions of the Labour Code which had been the subject of comments for several years.

Specifically, Act No. 44, section 70, rescinds the requirement that 75 per cent of the members of a trade union must be Panamanian (section 347 of the Code); section 45 provides that the reasons for removal of members and leaders of an organization are to be determined by the rules of the organization, amending section 359 of the Code; under article 49, the authorities are only allowed to inspect the books of records, members and accounts when requested to do so by at least 20 per cent of its members, amending section 376(4) of the Code; and section 46 amends section 369 of the Code, by abolishing the requirement to be of Panamanian nationality in order to serve on the executive board of a trade union; the Committee hopes that the requirement in question will also be deleted from the Constitution (article 64).

Moreover, the Committee notes with interest that under section 41 of the above-mentioned Act No. 44, section 344 of the Labour Code is amended, reducing from 50 to 40 the minimum number of workers needed to establish an occupational organization. The Committee observes, nevertheless, that the too-high number of ten employers needed to establish an occupational organization has not been modified and hopes that the Government, in consultation with the social partners, will be able to reduce this requirement also and will continue to reduce still further the minimum number of workers in order to establish a trade union on the enterprise level.

With reference to the exclusion of public servants from the scope of the Labour Code and consequently from the right to organize (section 2(2) of the Labour Code), the Committee notes with interest that section 174 of Act No. 9 ("establishing and regulating administrative careers"), adopted on 20 June 1994 provides for the right to organize of public servants by establishing that "public servants engaged in administrative careers may establish or join associations of public servants of a social, cultural and economic nature, of their respective institutions, which have the aim of promoting the studies, training, improvement and protection of their members .... The Committee duly notes that Act No. 9 lays down the right of public servants to strike in conformity with the law as well as the right to collective bargaining.

Nevertheless, the Committee observes that section 174 of Act No. 9 lays down that there shall not be more than one association in an institution and that the last paragraph of section 178 stipulates that the associations may have provincial or regional chapters but not more than one chapter per province.

In this respect, the Committee wishes to state that any system of trade union unity or monopoly imposed directly or indirectly by the law runs counter to the principle of free establishment of organizations of workers and employers set forth in Article 2 of the Convention. The Committee wishes to remind the Government that although it was clearly not the purpose of the Convention to make trade union diversity an obligation, it does at the very least require this diversity to remain possible in all cases. There is a fundamental difference between, on the one hand, a trade union monopoly established or maintained by law and, on the other hand, voluntary groupings of workers or unions which occur (without pressure from the public authorities, or due to the law) because they wish, for instance, to strengthen their bargaining position, or to coordinate their efforts to tackle ad hoc difficulties which affect all their organizations (see General Survey on freedom of association and collective bargaining, 1994, paragraph 91).

The Committee hopes that the Government will continue to make every effort to bring the legislation into full conformity with the Convention and requests it to keep it informed on any progress made in this regard.

The Committee is also addressing a direct request on certain points to the Government.

Paraguay (ratification: 1962)

The Committee notes the Government's report and recalls that, in substance, its previous comments referred to:

- the exclusion from the scope of the new Labour Code, 1993, of public servants, be they from the Central Administration or from Decentralized Units (section 2);
- the requirement of 300 workers as the minimum number to form a trade union (section 292 of the new Code);
- the requirement of being an active worker in the enterprise and an active member of the trade union in order to be eligible for trade union office (sections 298(a) and 293(d) of the new Code, respectively);
- the restriction on the free election of trade union representatives (Decree No. 16769 which contains detailed and meticulous regulation of the trade union electoral process);
- the referral of collective disputes to compulsory arbitration and the dismissal of workers who have stopped work before the conciliation and compulsory arbitration

procedures have been exhausted (sections 284, 291, 293, 302 and 308 of the Code of Labour Procedure).

The Commission notes with interest that according to the information provided by the Government, Decree No. 16769 which restricts free election of trade union representatives was declared unconstitutional by the Supreme Court of Justice, and is therefore null and void. The Committee requests the Government to inform it on the adoption of any derogating text.

On the exclusion of public servants from the scope of the new Labour Code of 1993, the Committee duly notes that, according to the information supplied by the Government, the new Act for public servants is before the Parliament and that the Committee's comments on the right to organize of workers in public services have been taken into account. In regard to Act No. 200 which lays down the status of public officials, particularly in regard to sections 31 and 36 (which are contrary to the Convention), the Commission notes with interest the information from the Government that although the Act is still in force, its provisions are contrary to the national Constitution (articles 96 and 98) and that, consequently, they are null and void and without legal force.

The Committee hopes that in preparing the Act for public servants the provisions of the Convention have been taken into account and that the Act will repeal Act No. 200, particularly sections 31 and 36, in order to bring the law into full conformity with the practice and the requirements of the Convention.

Although the Committee has noted with interest that article 97 of the new Constitution stipulates that arbitration is optional, it requests the Government once again to inform it whether sections 284, 291, 293, 302 and 308 of the Code of Labour Procedure (on compulsory arbitration and dismissal of workers who have stopped work during the process) have been repealed, so that effect is given to the voluntary nature of arbitration.

With regard to the requirement that a minimum number of 300 workers is needed to form a trade union (section 292 of the new Code) and the requirement to be an active worker in the enterprise and an active member of the trade union in order to take up trade union office (sections 298(a) and 293(d) of the new Code, respectively), the Committee requests the Government once again to take measures, in consultation with its social partners, to amend legislation for the purpose of reducing the minimum number of workers needed to establish a trade union and to allow workers to elect their representatives in full freedom.

The Committee requests the Government to inform it in its next report of the measures adopted to bring legislation into conformity with the requirements of the Convention and also on the progress in approving the special Act for public servants and to send a copy of the new Act once it is adopted.

The Committee is also sending a request directly to the Government on various points.

Rwanda (ratification: 1988)

The Committee notes with regret that the Government's report does not contain a reply to its previous observation.

1. *Prohibition of the right to strike in the public service.* The Committee recalls that whereas it has always acknowledged that the right to strike may be limited or even prohibited in the public service, such a prohibition would be nonsensical if legislation adopted a too broad definition of the concept of public service. The Committee cannot disregard the peculiarities or legal and social traditions of each country but it must

nevertheless attempt to identify relatively uniform criteria permitting examination of the compatibility of a legislation with the principles of freedom of association. In these circumstances, the prohibition of the right to strike should not be imposed on public servants who are not exercising authority in the name of the State (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 158).

The Committee therefore requests the Government to indicate the measures which have been taken, or are envisaged, to amend section 26 of the Legislative Decree of 19 March 1974 to issue the general conditions of service of employees of the State (which, under its present wording, continues to forbid state employees to take part in strikes or in activities aimed at causing a strike in the state services) with a view to limiting the restrictions on the right to strike to those which accord with the principles of freedom of association.

2. *Hindrance with respect to the election of trade union representatives.* The Committee recalls that under *Article 3 of the Convention* workers' and employers' organizations shall have the right to elect their representatives in full freedom.

The Committee therefore requests the Government to indicate the measures which have been taken or are envisaged to amend section 8 of the Labour Code which prohibits election of non-Rwandans to trade union office, in order to permit foreign workers to hold trade union office at least after a reasonable period of residence in the country (see paragraph 118 of the General Survey).

The Committee reminds the Government that the ILO is at its disposal for any assistance that may be needed in formulating amendments which will give effect to the Convention and hopes that the Government will make every effort to take the necessary action in the very near future. It requests the Government to communicate in its next report information on any progress made in these fields.

Saint Lucia (ratification: 1980)

The Committee notes with regret that for the fourth year in succession the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous direct request, which read as follows:

> With reference to its previous comments on the need to amend sections 18(7) and 19 B(2) of the Trade Unions and Trade Disputes Ordinance of 1959 which confer discretionary power on the Registrar to inspect trade union accounts, by restricting their application to cases of presumed infringements coming to light from the presentation of annual financial reports or to cases of complaints by members of the union, the Committee notes the Government's report which states that it plans to review its labour legislation, with the assistance of the ILO, in order to harmonize it with ratified Conventions. It asks the Government to indicate in its next report the measures that it has taken to bring the legislation into conformity with *Article 3 of the Convention* and national practice.

Spain (ratification: 1977)

The Committee notes the Government's report and the comments of the General Union of Workers (UGT).

In its previous observation, the Committee noted that the basic Bill in relation to strikes and collective disputes had been sent to Parliament with the agreement of the Trade Union Confederation of Workers' Commissions (CC.OO) and the UGT; the text provided that responsibility for determining those who are to provide minimum essential services will be shared between the employers and the trade unions, or the representatives of the workers who have called the strike.

The Committee expresses the hope that the future basic law respecting strikes and collective disputes will fully respect the principles of freedom of association in relation to strikes and, in particular, minimum services.

Swaziland (ratification: 1978)

The Committee notes the Government's report. The Committee recalls that, for a number of years, its previous comments concerned discrepancies between the Convention and the 1980 Industrial Relations Act and the 1973 Decree on Meetings and Demonstrations.

Article 2 of the Convention

- non-recognition of the right of association of prison staff (section 83(c) of the Act);
- obligation upon workers to organize within the context of the industry in which they exercise their activity (section 2(1) and (2) of the Act);
- power of the Labour Commissioner to refuse to register a trade union if he considers that the interests of the workers are fully or substantially represented by a trade union that has already been registered (section 23), even though by virtue of section 24(1)(d) an appeal may be made against such a refusal before the Labour Tribunal;
- obligation for an occupational organization or federation to obtain authorization before affiliating with any international organization (section 34(1)).

Article 3 of the Convention

- prohibition on federations from carrying out political activities and limitation of their activities to providing advice and services (section 33);
- prohibition of the right to strike in certain sectors or services, in particular in the postal, radio and teaching sectors (section 65(6) of the Act);
- power of the Minister to refer any dispute to compulsory arbitration if he considers that a current or pending strike constitutes a threat to the national interest (section 63(1));
- important restrictions of the rights of organizations to hold meetings and peaceful demonstrations (section 12 of the 1973 Decree).

The Committee notes with interest the information provided by the Government in its report that a draft Industrial Relations Bill, which takes into consideration the comments of the Committee of Experts, has been elaborated and was submitted to Parliament in 1995. The draft has been approved by the National Assembly and needs to be submitted to the Senate. In addition a draft amendment of the Employment Act was also elaborated in 1995. It will have to be discussed in a tripartite commission before being submitted to the competent authorities. The Government adds that it will provide copies of these two texts as soon as they are adopted.

The Committee trusts that these two texts will bring the legislation into full conformity with the requirements of the Convention. It requests the Government to transmit, in its next report, copies of the two drafts in question, even if they have not yet been adopted, so as to enable the Committee to examine their conformity with the Convention and, if they have already been adopted, it requests the Government to transmit them in their final version."

Syrian Arab Republic (ratification: 1960)

The Committee notes the information supplied by the Government in its report indicating that the draft legislative decree to amend the provisions of Legislative Decree No. 84 of 1968 on trade unions in line with certain comments made by the Committee for a number of years, has not yet been adopted. The Government adds that it has again asked the General Federation of Peasants and the General Federation of Craftsmen to designate their representatives to serve on the tripartite commission responsible for preparing texts to amend Act No. 21 of 1974 on peasants' associations and Legislative Decree No. 250 of 1969 on craftsmen's associations.

Since the Government's report, which arrived too late to be examined by the Committee at its session in February 1995, contains no further information on the situation, the Committee is bound to repeat once again the comments and requests it has been making for many years and recalls that there are still divergencies between the national legislation and the Convention, particularly on:

- Legislative Decree No. 84 of 1968 on trade unions (section 7) which organizes the structure of trade unions on a single union basis;
- Legislative Decree No. 250 of 1969 regarding craftsmen's associations (section 2) and Act No. 21 of 1974 regarding peasants' cooperative associations (sections 26 to 31) which impose a single trade union system;
- section 25 of Legislative Decree No. 84 which restricts the trade union rights of non-Arab foreign workers;
- sections 32, 35, 36, 44 and 49(c) of Legislative Decree No. 84 and sections 6 and 12 of Legislative Decree No. 250 of 1969 restricting the free administration and independence of management of trade unions;
- section 160 of the Agricultural Labour Code of 1958 prohibiting strikes in the agricultural sector.

1. *Single trade union system.* The Committee recalls that Article 2 of the Convention is not intended as an expression of support for either the idea of trade union unity or trade union pluralism but to ensure that workers, without distinction whatsoever, and without previous authorization, shall have the right to establish and join organizations of their own choosing. The Committee requests the Government to take the necessary measures without delay to delete from legislation the numerous references to the single central trade union organization designated in law as the General Federation of Workers' Union (FGST) and allow workers who so wish to establish organizations of their own choosing outside the existing trade union structure.

2. *Restrictions to the right of non-Arab foreign workers employed in the Syrian Arab Republic.* Section 25 of Legislative Decree No. 84 does not confer on foreign workers the right to join trade unions unless they have resided in Syria for one year and on condition of reciprocity. The Committee recalls that the guarantees of Article 2 of the Convention apply to *all workers, without distinction whatsoever*. It requests the Government to amend this Article to bring national legislation into conformity with the Convention.

3. *Wide powers of intervention by the authorities over public finances.* Several sections of Legislative Decree No. 84 (32, 35, 36, 44 and 49, paragraph (c)), and of Legislative Decree No. 250 of 1969 (6 and 12) confer on the public authorities the discretionary power to inspect the books and other documents of organizations, to carry out investigations, to demand information at any time and to supervise trade union funds. The Committee requests the Government to abolish these impediments to the right of

workers' organizations to organize their management and activity without interference from the public authorities in accordance with the requirements of *Article 3, paragraphs 1 and 2, of the Convention*.

4. *The need to belong to the occupation for a minimum of six months in order to be elected to trade union office.* Section 44 of Legislative Decree No. 84 is liable to prevent qualified persons such as permanent trade union members and retired persons from exercising trade union office. The Committee requests the Government to make its legislation more flexible in order to allow the candidature of persons who formerly worked in the occupation and to lift the conditions on belonging to the occupation for a reasonable proportion of trade union officials in order to allow the candidature of persons from outside the occupation.

5. *Prohibition on strikes in the agricultural sector.* In regard to section 160 of the Agricultural Labour Code forbidding agricultural workers to go on strike, the Committee notes with regret that the repeal of this text announced by the Government some time ago has not yet been adopted. The Committee once again emphasizes the importance it attaches to legislation not depriving trade union organizations of the right to strike, as this is one of the essential means by which they can promote and defend the occupational interests of their members, and requests the Government to repeal this provision.

The Committee must therefore request the Government once again to indicate in its next report the measures which have been taken to bring the whole of its legislation into conformity with the Convention.

[The Government is requested to provide full particulars to the Conference at its 83rd Session.]

Trinidad and Tobago (ratification: 1963)

The Committee takes note of the Government's report.

With regard to the need to amend section 59(4)(a) of the Industrial Relations Act, so as to enable a simple majority of the voters in a bargaining unit (excluding those workers not taking part in the vote) to call a strike, as well as sections 61 and 65 of the same Act, to ensure that any resort to the courts by the Ministry of Labour, or by one party only, to end a strike is limited to cases of strikes in essential services in the strict sense of the term, that is to say those in which the strike would endanger the life, personal safety or health of the whole or part of the population, or in cases of acute national crisis, the Government indicates in its report that another tripartite committee was appointed to review the whole of the Industrial Relations Act, chap. 88:01 and that it is still deliberating.

The Committee understands from the decisions of the courts that were provided by the Government with its report that the Ministry of Labour referred various matters to the Industrial Court under section 61(d) of the Industrial Relations Act. It appears that, over the years, the Ministry of Labour has intervened in services which are not essential services in the strict sense of the term and that acute national crisis was not at stake in any case. The Committee therefore requests the Government to provide information in its next report on the progress of the work of the committee appointed to review the Industrial Relations Act and would ask the Government to implement legislation along the lines it has been suggesting for many years.

Turkey (ratification: 1993)

In communications dated 4 July 1994 and 24 February 1995, the Committee received observations from the Confederation of Turkish Trade Unions (TURK-IS) and the

Confederation of Progressive Trade Unions of Turkey (DISK) respectively concerning the application of the Convention. In this context, the Committee regrets to note that the Government has not replied to these observations. During its present meeting, however, the Committee has received the Government's first report which will be examined at its next meeting. The Committee requests the Government to transmit without delay its comments on the observations made by TURK-IS and DISK.

United Kingdom (ratification: 1949)

Further to its previous observation, the Committee notes the detailed discussion which took place at the Conference Committee in June 1995 on the issue of the right to organize of workers at the Government Communications Headquarters in Cheltenham (GCHQ).

The Committee notes in particular that the Conference Committee had hoped it would be possible, with the exercise of common sense and goodwill, for a satisfactory resolution of this case to be reached in the near future and had invited the Government to receive an ILO advisory mission to help this process.

In this context, the Committee takes note of a communication from the Government in which it reaffirms that it has engaged in negotiations with the civil service trade unions over a period of years in a genuine effort to find a solution which would both safeguard national security and meet the unions' concerns. The Government emphasizes that a number of specific proposals have already been explored and that it is prepared to continue to discuss these and any other proposals the trade unions wish to put forward. For the Government, it is not immediately clear what practical contribution an ILO advisory mission could make. Nevertheless, the Government is prepared for officials to make contact with the Office in this respect.

The Committee also takes note of a communication from the Trades Union Congress alleging the absence of any initiative on the part of the Government to find a solution which conforms to Convention No. 87 as well as the absence of any measures taken by it following the discussion of this case at the Conference Committee. Furthermore, the Committee notes the Government's reply in which it refutes these observations and confirms that it remains ready to continue discussions.

The Committee expresses the firm hope that in-depth discussions between the Government and the trade unions concerned will allow the issue of the right to organize of GCHQ workers to be resolved in a manner that is satisfactory to the parties and in accordance with *Article 2 of the Convention*. The Committee is convinced that an ILO advisory mission could make a useful contribution in resolving this issue.

It requests the Government to provide information in its next report on developments in respect of the situation at the GCHQ as well as on the other points which were raised in its previous observation: unjustifiable discipline; immunities in respect of civil liability for strikes and other industrial action; dismissals in connection with industrial action; and detailed regulation of the internal functioning of workers' organizations.

Venezuela (ratification: 1982)

With reference to its previous comments, the Committee notes the discussions which took place in the Conference Committee on the Application of Standards in June 1995 and the observations of the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS) and the International Organization of Employers (IOE).

The FEDECAMARAS and the IOE state that the Government has not implemented the recommendations of the Committee on Freedom of Association set out in its 290th Report of May 1993, regarding the amendment of various provisions of the Organic Labour Law which are contrary to freedom of association, despite the Government's promises to the Committee on Standards during its Conference to call a tripartite meeting to seek solutions to the problems raised by the Convention.

For its part, the Committee expresses the firm hope that the Government, in consultation with the social partners, will adopt shortly the necessary measures to remedy the discrepancies between the national legislation and the Convention, taking particularly into consideration the comments it has made that:

— the period of residence required (more than ten years) in order for foreign workers to hold trade union office is too long;

— the list of attributions and purposes required for workers' and employers' organizations is too extensive;

— the number of workers (100) required to form unions of self-employed workers is too high; and

— the number of employers (ten) required to form an employers' organization is too high.

The Committee again requests the Government to provide information in its next report on amendments made to this end.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Argentina, Azerbaijan, Belarus, Congo, Dominica, Gabon, Ghana, Jamaica, Latvia, Panama, Paraguay, Tajikistan, Ukraine.*

A general request in relation to the application of the Convention is also addressed to all States that have ratified it.

Information supplied by *Cameroon* and *Madagascar* in answer to a direct request has been noted by the Committee.

Convention No. 88: Employment Service, 1948

Algeria (ratification: 1962)

The Committee notes the Government's detailed report containing information on the reorganization of the National Manpower Office (ONAMO). It notes in particular that the ONAMO has been replaced by the National Employment Agency (ANEM) established by Executive Decree No. 90.259 of 8 September 1990. It also notes the statistical information on the number of applications for employment, vacancies notified and persons placed in employment for the period 1990-92 supplied by the Government with the report.

Articles 4 and 5 of the Convention. The Committee notes that the ANEM is administered by an administrative board which, under section 14 of the pertinent decree, includes six representatives of occupational organizations of public and private employers, three elected representatives of ANEM workers and one representative of each national association of employment seekers up to a maximum of five. With reference to its previous observations, the Committee wishes to recall that "the representatives of employers and workers" on the advisory committees stipulated in these

Articles of the Convention "shall be appointed in equal numbers after consultation with representative organizations of employers and workers". It reiterates its hope that the Government will adopt in the near future the necessary measures to bring the national regulations into conformity with those Articles of the Convention which are designed to ensure that there is cooperation between representatives of employers and workers in the organization and functioning of the employment service and in the formulation of the employment service policy.

Article 6(d). The Government states in its report that the employment services are in charge of all the activities laid down in Article 6 of the Convention, with the exception of those listed in 6(d). The Committee would be grateful if the Government would describe in its next report the measures taken to apply this provision of the Convention which lays down that the employment service must "cooperate in the administration of unemployment insurance and assistance and of other measures for the relief of the unemployed".

Article 7. In its report, the Government highlights the difficulties encountered in applying the provisions of this Article concerning, particularly, specialization by occupations and by industries within the various employment offices, and difficulties relating to the problem of lack of supervision in the employment services which are being set up in the various regions of the country. The Committee would be grateful if the Government would give detailed information in its next report on the measures taken to apply this Article and specify the particular occupations, industries and categories of applicants for employment for whom special measures have been taken or are envisaged.

Djibouti (ratification: 1978)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the information supplied by the Government in reply to its previous comments, but also notes that many of the Articles of the Convention are still not being applied.
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> *Article 3 of the Convention.* The Government states once again that no measure has been taken to set up a sufficient number of employment offices, despite the provisions of section 41 of Act No. 21/AN/83 first L of 3 February 1983 to organize the central administration of the Ministry of Labour and Social Welfare. The Committee notes that no progress has been achieved in this respect for several years and once again hopes that the appropriate measures will be taken in the near future to give effect to this Article of the Convention, and to the above provisions of the national legislation. It requests the Government to supply information on any progress achieved in this respect in its next report.
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> *Articles 4 and 5.* In its previous comments, the Committee noted that no arrangements had been made through the advisory committee provided for in section 162 of the Labour Code currently in force to involve the social partners in the organization and operation of the National Employment Service. The Government's report provides no new information on this aspect. The Committee therefore once again hopes that the Government will not fail to take the necessary steps in the very near future to give full effect to these Articles, which provide that suitable arrangements shall be made through advisory committees for the cooperation of representatives of employers and workers in the organization and operation of the employment service, and consultation with these representatives in the development of employment service policy. The Committee trusts that the Government will be able to describe in its next report the measures which have been taken or are envisaged and the progress which has been achieved with a view to ensuring conformity with these provisions of the Convention.

> *Articles 7 and 8.* In its previous report, the Government stated that no measures had been taken to give effect to these Articles owing to the lack of qualified managerial staff in the placement division. The Committee nevertheless hoped that the Government would do its utmost to take appropriate measures in the very near future to meet the needs of particular categories of applicants for employment, such as persons with disabilities and juveniles, in accordance with these Articles. It hopes that the Government will be able to describe the progress achieved on these points in its next report.
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> *Article 9, paragraph 4.* The Committee notes from the Government's report that the project for the specialized training of managerial staff, financed by the EC and the World Bank, has come to an end. It would be grateful if the Government would indicate any action taken to continue the provision for adequate training of staff for the performance of their duties in the employment service, in accordance with these provisions of the Convention.
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> *Point VI of the report form.* The Committee would be grateful if the Government would continue to supply information on any practical difficulties encountered in the implementation of the Act of 1983 and in the application of the Convention. The Government may find it helpful to have some assistance from the ILO on certain aspects of the application of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Singapore (ratification: 1964)

Articles 4 and 5 of the Convention. The Committee notes the Government's reply to its earlier comments. The Government reiterates its previous view that there is no necessity to set up a separate advisory body on employment service, since various employment issues are dealt with by ad hoc tripartite committees, as well as by the National Wages Council (NWC), which is also a tripartite body. The Committee would be grateful if the Government would describe in more detail the sphere of competence of the NWC, indicating, in particular, whether representatives of employers and workers can cooperate on this body in matters concerning the organization and operation of the employment service and the development of employment service policy. Moreover, the Committee notes the Government's statement to the effect that the setting up of a tripartite advisory employment service committee will be considered when the need arises in the future. It reiterates its hope that appropriate measures will be taken in due time to give full effect to these Articles of the Convention which provide for the cooperation of representatives of employers and workers through advisory committees in the organization and operation of the employment service and in the development of the employment service policy.

Zaire (ratification: 1969)

The Committee notes with regret that the Government's report has not been received for the third year in succession. It must therefore repeat its previous observation which read as follows:

> *Article 3 of the Convention.* The Committee notes with interest that the Department of Employment and Social Insurance is progressively continuing to establish employment offices in the regions, and that three employment offices have been opened respectively in Kinshasa, Lubumbashi and Kisangani. It also notes the Government's statement that this programme is being continued in the eight other regions of the country. The Committee hopes that in the near future the Government will be able to report that new progress has been achieved in the development of a network of employment offices, in accordance with this Article of the Convention.

Articles 4 and 5. The Committee notes that the draft ordinance, establishing the new National Employment Service, was submitted for examination by the Executive Council and that representatives of employers and workers took an active part in all the discussions on the organization and discussion of the National Employment Service at the 21st Session of the National Employment Council. The Committee hopes that the Government will supply additional information in its next report in order to give fuller details on the arrangements that have been made, in accordance with these provisions of the Convention, for the cooperation of representatives of employers and workers in the organization and operation of the employment service and the development of the policy of this service.

Application in practice and other information required by the report form. The Committee notes the Government's concern to improve the collection of statistics related to the application of the Convention. It hopes that the Government will be able to furnish in due time, the statistical information that has been published (particularly concerning the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment), and any relevant general appreciation of the manner in which the Convention is applied, in accordance with *points IV and VI of the report form*. Please also supply the ILO with the text of the above ordinance once it has been adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bahamas, Central African Republic, Guatemala, Panama, San Marino, Sao Tome and Principe, Slovakia, Slovenia, Venezuela*.

Information supplied by *Kenya, Malaysia* and *Thailand* in answer to a direct request has been noted by the Committee.

Convention No. 89: Night Work (Women) (Revised), 1948 [and Protocol, 1990]

Brazil (ratification: 1955)

The Committee has noted the information supplied by the Government in its report.

In its previous observation, the Committee noted that, following the promulgation of the new Federal Constitution of 5 October 1988, there is no longer any prohibition on night work for women in industry, as this is considered as discrimination against women. The Committee is bound to note that the Convention is not being applied.

The Committee also notes that the Government intends to denounce the Convention and to ratify the Night Work Convention, 1990 (No. 171).

The Committee notes the Government's statement that under cover of Note No. 344 of the Executive Authorities it transmitted to the National Congress Convention No. 171 and the Protocol of 1990 relating to Convention No. 89 (revised). The Committee requests the Government to keep it informed of progress made in this matter.

Costa Rica (ratification: 1960)

The Committee notes the Government's report.

In its previous comments, the Committee noted the comments made by the Trade Union Association of Customs Officials (ASEPA) on the application of the Convention. In its comments, the ASEPA states that, by virtue of Executive Decree No. 23116-MP, published in *La Gaceta* No. 76 of 21 April 1994, provisions were issued which contravened the terms of labour law and ratified Conventions, including Convention No. 89. The ASEPA also states that the appeal against Executive Decree No. 23116-MP which violates ratified Conventions, including Convention No. 89, was rejected by the constitutional court on its substance, without considering its implications.

The Committee observes that Executive Decree No. 23116-MP relates to the nature of the work and the organizational and environmental conditions for customs handlers, customs operations technicians 1 and 2, customs officials 1, 2, 3, 4, 5, 6 and 7, the Deputy Director-General of Customs and the Director-General of Customs and that, in its view, they do not relate in any way to the provisions of the Convention.

The Committee notes the Government's statement to the effect that the comments made by ASEPA (Case No. 1808 (290th Report of the Committee on Freedom of Association, 263rd meeting of the Governing Body, June 1995)) received a detailed reply in official letter OAI-DM-015-95 dated 4 May 1995.

The Committee notes that none of the recommendations of the Committee on Freedom of Association related to the application of the Convention.

Zambia (ratification: 1965)

The Committee has noted the information supplied by the Government in its report.

In its previous observations, the Committee noted that the Employment of Women, Young Persons and Children Act No. 14 of 1989, Cap. 505 has been amended by Act No. 4 of 1991 under which the provision barring women from night work in industrial undertakings has been repealed. It also noted that according to the Government the repeal of the above-mentioned provision has removed from the legislation any traces tending to discriminate against women in the field of employment and to ensure, on the basis of equality, the same rights and treatment for men and women. Furthermore, the Committee noted that the Government would examine without delay whether it wished to continue to be bound by the Convention and noted that the Convention was no longer being applied.

The Committee notes the Government's statement that, having abolished the protective provisions of legislation, its concern is now to consult the social partners on the obligations arising from its ratification of the Convention. A consultation is in progress with organizations representing employers and workers with a view to denouncing the Convention.

The Committee requests the Government to continue to supply information on the decisions taken in this matter.

Convention No. 90: Night Work of Young Persons (Industry) (Revised), 1948

Costa Rica (ratification: 1960)

The Committee notes the Government's report.

In its previous comments, the Committee noted the comments made by the Trade Union Association of Customs Officials (ASEPA) on the application of the Convention. In its comments, the ASEPA states that, by virtue of Executive Decree No. 23116-MP, published in *La Gaceta* No. 76 of 21 April 1994, provisions were issued which contravened the terms of labour law and ratified Conventions, including Convention No. 90. The ASEPA also states that the appeal against Executive Decree No. 23116-MP which violates ratified Conventions, including Convention No. 90, was rejected by the constitutional court on its substance, without considering its implications.

The Committee notes the Government's statement to the effect that the comments made by ASEPA (Case No. 1808 (290th Report of the Committee on Freedom of Association, 263rd meeting of the Governing Body, June 1995)) received a detailed reply in official letter OAI-DM-015-95 dated 4 May 1995.

The Committee observes that Executive Decree No. 23116-MP relates to the nature of the work and the organizational and environmental conditions for customs handlers, customs operations technicians 1 and 2, customs officials 1, 2, 3, 4, 5, 6 and 7, the Deputy Director-General of Customs and the Director-General of Customs and that, in its view, they do not relate in any way to the provisions of the Convention.

The Committee notes that none of the recommendations of the Committee on Freedom of Association related to the application of the provisions of the Convention.

Poland (ratification: 1968)

The Committee notes the information provided by the Government and refers to the observation made under Convention No. 79. It requests the Government to continue supplying statistical data relating to infringements in the field of night work of young persons in industrial undertakings and information on all progress achieved in the implementation of the Convention.

Convention No. 91: Paid Vacations (Seafarers) (Revised), 1949

Tunisia (ratification: 1970)

Further to its previous comments, the Committee notes with satisfaction that Act No. 95-59 of 3 July 1995 to amend certain sections of the Maritime Labour Code establishes a new version of section 112 of the above Code which provides that, after twelve months of continuous service, seafarers are entitled to paid vacation at the expense of the ship owner of one and a half working days for each month of service. It also notes that, in the determination of the period when the vacation is due, service performed outside the maritime employment contract is counted in the calculation of the period of continuous service, and short-term interruptions of service and changes of management or ownership are not considered to be interruptions of service. These amendments bring the provisions of national law into conformity with *Article 3, paragraphs 1(a) and 4, of the Convention.*

* * *

A request regarding certain points is being addressed directly to *Guinea-Bissau*.

Convention No. 92: Accommodation of Crews (Revised), 1949

Panama (ratification: 1971)

The Committee notes the Government's reports indicating that the draft text of the Labour Act respecting navigable seaways and waterways has not yet been adopted, but that a tripartite national commission will be established, the responsibilities of which will include bringing the above draft into conformity with ratified maritime Conventions. The Committee also notes the statistical data concerning the inspections undertaken by the Maritime Safety Office (SEGMAR), and by the Maritime Labour Inspectorate of the

Ministry of Labour and Social Welfare. It notes that the inspections undertaken by SEGMAR reported deficiencies in relation to the provision of hospital accommodation and the medicine chest *(Article 14, paragraphs 3 and 7, of the Convention)*. The Committee would be grateful if the Government would continue to provide information on the results of the above inspections, particularly with regard to the application of the requirements of the Convention *(point V of the report form)*.

The Committee also reiterates its request for the Government to take the necessary measures for the adoption as soon as possible of the above-mentioned draft, which contains provisions on inspection visits to ensure compliance with maritime labour legislation and which should, to a certain extent, ensure the application of *Article 6, paragraph 8* (fire-prevention measures), *Article 7, paragraph 4* (ventilation of ships engaged outside the tropics), *Article 9, paragraph 3* (additional lighting), *Article 10, paragraphs 4, 5, 6, 8 and 9* (sleeping rooms), *Article 11, paragraphs 1, 2, 3 and 4* (mess rooms), and *Article 13, paragraphs 1, 2, 3, 4 and 5* (sanitary accommodation).

[The Government is asked to report in detail in 1996.]

Convention No. 94: Labour Clauses (Public Contracts), 1949

Austria (ratification: 1951)

1. Further to its previous observation, the Committee notes the information supplied by the Government with regard to the present scope of the Federal Act on the Award of Contracts (B Verg G) BGBl No. 462/1993 and to its extension to contracts for building, which is in preparation. It also notes the information supplied by the Government on the enactment of similar acts by *Laender* authorities. The Committee requests the Government to continue to supply information on developments in legislative and other measures concerning the application of the Convention.

2. The Committee noted in its previous observation, the comments of the Federal Chamber of Labour, according to which: (i) the criteria established for employer conduct in connection with the award of public contracts are too narrow (only illegal employment of foreigners, non-payment of taxes and other levies and failure to meet levels of pay set out in collective agreements are penalized, but *not* the violation of other labour law provisions, such as the right to vacation); and (ii) mandatory penalties are laid down only for repeated violations of regulations governing the employment of foreigners, while for the other offences, the contract-placing authorities are granted a broad discretion on the award of contracts.

The Government indicates in response that the specific provision regarding infringements of the legislation on the employment of foreigners is included in the above Act (section 10, paragraph 3) because it was expressly called for in a National Council resolution, and that under section 44, paragraph 1, item (4) of the Act, infringements of working time and other provisions of labour law would also constitute a reason for exclusion from tendering procedure. In addition, the Government considers it difficult to establish a clear, exhaustive and comprehensible definition of misconduct deserving exclusion, given the range of labour and social provisions and the multitude of possible offences.

The Committee notes this information. It recalls that *Article 5(1) of the Convention* calls for the application on adequate sanctions for failure to observe the labour clauses in public contracts. The Committee would point out that, to ensure the application of this provision of the Convention in practice, it is not enough just to stipulate possible measures of sanction in legislative provisions, but it is necessary to implement in practice such provisions of sanction. It therefore requests the Government to supply information on measures taken to ensure the practical application of the provisions of the Act, and in particular on cases in which its section 44, paragraph 1, item (4), was actually applied to infringements of provisions concerning labour conditions (such as wages, working hours, safety and health).

Cameroon (ratification: 1962)

The Committee notes with regret that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation on the following points:

> The Committee takes note of the information contained in the Government's last report to the effect that it would adopt the necessary measures to bring the legislation into conformity with the provisions of the Convention.
>
> The Committee recalls that it suggested that the Government consider the possibility of requesting ILO assistance to adopt the necessary legislation to apply the Convention. The Committee asks the Government to continue to indicate the measures taken in this respect and hopes that the legislation necessary to apply the Convention will be adopted in the near future.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Central African Republic (ratification: 1964)

With reference to the comments it has been making for a number of years, the Committee notes the statement to the effect that the Government intends to supplement Decrees Nos. 61/135 and 61/137 of 19 August 1961 relating to public contracts for the supply of goods and services, taking into account the Committee's suggestions. Recalling that the Government has been expressing this intention since 1982, the Committee hopes that the Government will be able to adopt these texts in the very near future. In this connection, the Committee emphasizes that in accordance with the provisions of *Article 2, paragraph 1, of the Convention*, the contracts to which the Convention applies shall include clauses guaranteeing to the workers concerned working conditions, and not only wages, which are not less favourable than those established for work of the same character in the trade or industry concerned in the same district. The Committee hopes that the Government will be able to supply the texts adopted with its next report.

With regard to the National Collective Agreement for Public Works and Construction, the Committee requests the Government to supply a copy of this agreement since the copy referred to in its earlier report has not been received.

Costa Rica (ratification: 1960)

The Committee notes the comments made by Association of Customs Officers (ASEPA) in a communication dated 12 October 1995. It notes that, although the ASEPA mentions Convention No. 94 among others, there is no information in the communications that would allow the Committee to judge whether there has been any infringement of the provisions of the Convention. The Committee recalls that the Convention applies to public contracts which involve the employment of workers by the party other than the public authority *(Article 1(1)(b)(ii) of the Convention)*, and that the employment contracts between a public authority and its employees are outside the scope of this Convention.

Egypt (ratification: 1960)

Further to its previous observation, the Committee notes the Government's repeated reference to section 57 of the Labour Code (Act No. 137 of 1981) for the application of *Article 2 of the Convention*.

The Committee once again points out that the requirement of the Convention under *Article 2* is to ensure the insertion of a labour clause in public contracts so as to guarantee to the workers employed by the contractor, the prevailing labour conditions which have been established in any of the three ways specified in Article 2(1), items (a), (b) and (c). The Committee also recalls that these three items do not stipulate the manner in which the Convention should be applied. The principal aim of a labour clause is to protect fair conditions of labour from the consequences of competitive practice of tendering for a public contract, in which firms tendering for a public contract may feel the temptation to calculate labour costs at a level lower than the prevailing conditions. In addition, the provision of penalties in the labour clauses, such as the withholding of contracts, makes it possible to impose effective sanctions directly in case of violations.

The Committee recalls that section 57 of the Labour Code concerns the equality of treatment between a subcontractor's own workers and those of the employer. In the case of a public contract, for example, for the construction of some public works, when there is no employee of the public authority (the employer) engaged in construction work, "the equality of treatment" cannot guarantee any protection for the employees of the subcontractor. Therefore, this section 57 does not ensure the above-mentioned purposes of labour clauses in public contracts, and does not suffice for the application of Article 2 of the Convention.

The Committee recalls that the Government once indicated in its earlier report certain actions taken by the Central Body for Management and Administration to circulate instructions that a clause should be included in all public contracts in order to guarantee to the workers concerned conditions of labour not less favourable than those of other workers performing the same work. The Committee notes with regret that no further information has been supplied in this regard.

Recalling that it has been commenting on the application on the Convention since its ratification by Egypt, the Committee again expresses the hope that the Government will take appropriate measures (whether by way of legislation or administrative instructions) to provide for the insertion of a labour clause in public contracts in accordance with the provisions of the Convention.

Panama (ratification: 1971)

Further to its previous observation, the Committee notes the Government's indication in the report to the effect that it intends to deal with the measures to apply this Convention in the tripartite labour commission which is examining the questions relating to the Labour Code. It hopes that the necessary measures will be taken in the near future and requests the Government to indicate any progress made in this regard.

As to the questions raised in the previous direct request regarding the Specifications of Public Tenders (Model Articles and Conditions), the Committee notes that the Government's report gives no reply to them and repeats them in a new direct request. It hopes that the Government will supply the information requested.

[The Government is asked to report in detail in 1997.]

Rwanda (ratification: 1962)

The Committee notes the Government's statement in its report that the situation of officials under contract in the state administrations is regulated by the Labour Code and that in accordance with the model employment contract used such a contract must comply with the laws and regulations in force.

The Committee stresses once again that the fact that general labour legislation applies without distinction to all workers does not release a government from the obligation incumbent on it under this Convention to ensure the inclusion in the public contracts specified in *Article 1, paragraph 1, of the Convention* of appropriate labour clauses so as to guarantee that the conditions of work (including wages) of workers employed by public contractors are not less favourable than those established for work of the same character in that trade or industry in the same region, in accordance with *Article 2*.

The Committee hopes that the Government will be able to indicate in the very near future the measures which have been taken, through legislation or otherwise, to ensure the application of the Convention on this point.

Turkey (ratification: 1961)

In its previous observation, the Committee noted the comments communicated in August 1994 by the Confederation of Turkish Trade Unions (TURK-IS). TURK-IS considers that the provisions of Decree No. 88/13168 concerning general principles governing working conditions (labour clause) to be included in public contracts have not been implemented. Referring to the spreading practice of subcontracting, TURK-IS points out that the collective labour agreement concluded by the General Directorate of Highways and the Road, Building and Construction Workers' Union of Turkey (YOL-IS) is not applied to the employees of the contractors and subcontractors of the General Directorate.

The Committee further notes that additional observations made by TURK-IS and observations by the Turkish Confederation of Employers' Association (TISK), both concerning the difficulties encountered in the application of the Convention in practice, have been received with the Government's report.

The Committee notes that the Government refers in the addendum to its report received on 24 November 1995 to the provisions of the above-mentioned Decree No. 88/13168, and in particular to its section 4 stipulating that appropriate inspection should be carried out to ensure its enforcement. The Government states in addition that the "General Specifications for Public Works" contains provisions corresponding to the labour clause in line with the Convention, and its section 33 stipulates the application of penal provisions in the case of violation by contractors of the given labour conditions. The Government therefore considers that such problems as mentioned by TURK-IS can be solved in the context of these existing legislative measures and inspection system.

The Committee notes the above information and recalls that the existing legislative provisions are in conformity with the requirements of the Convention. It points out that the present issue relates to the application in practice of the national provisions that give effect to the Convention. The Committee therefore requests the Government to supply full information on the functioning of the inspection in this regard and the cases in which violations are observed and penal sanctions are actually applied in accordance with the provisions referred to. It asks the Government to provide a copy of the relevant provisions of the above-mentioned "General Specifications", and to include, for example, extracts from official reports.

The Committee is also addressing a direct request to the Government on other points.

[The Government is asked to report in detail in 1996.]

Zaire (ratification: 1961)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following points:

> In its previous comments, the Committee noted the Government's earlier indication that it was engaged in efforts to harmonize its legislation with the provisions of this Convention. The Committee recalls that it has been commenting on the application of this Convention for many years; and that in 1976, at the Government's request, the International Labour Office sent a proposal for new provisions that could be incorporated into the existing legislation in order to give effect to the Convention. However, although the Government has stated on several occasions that it would adopt the necessary texts to give effect to the Convention, they have not yet been adopted. The Committee therefore hopes that the Government will ensure that the text which is to give effect to the Convention and which the Government has been drafting since 1979, is adopted shortly.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Bulgaria, Burundi, Costa Rica, Djibouti, Guatemala, Jamaica, Panama, Saint Lucia, United Republic of Tanzania, Turkey, Uganda.*

Convention No. 95: Protection of Wages, 1949

Argentina (ratification: 1956)

1. The Committee noted in its previous comments the observations made by the Congress of Argentinian Workers (CTA) related to Decrees Nos. 1477/89 and 1478/89 respecting benefits to improve the nutrition of the worker and his family, as well as Decree No. 333/93 enumerating the benefits that do not have the character of remuneration.

The Government stated in its previous report that the above Decrees are intended to improve the living standards of workers and their family while maintaining their remuneration unchanged. The level of the benefit could have been determined as a function of any other parameter than a percentage of the wage. Remuneration and benefits are two legally separate items: benefits do not correspond to the service provided and are related to the family situation of the worker. Moreover, they are of a non-obligatory nature for employers.

The Committee noted these indications. It notes that by virtue of Decree No. 1477/89, employers are encouraged to establish this system of benefits in exchange for a reduction in the social contributions that they have to pay. It also notes that section 1 of both Decrees No. 1477/89 and No. 333/93 state that benefits intended to improve the nutrition of workers and their families do not constitute remuneration for the purposes of labour law, social security law "or for any other purpose". However, it notes that: (i) section 1 of Decree No. 1477 applies in cases of a relationship between an employer and the staff; (ii) the rate of benefit differs according to whether or not the worker is covered by a collective labour agreement; (iii) there is no reference in any of the provisions of the above texts to the family situation of the worker (single, married with or without children); and (iv) the amount of the benefit is indexed to the wage.

From the above, the Committee believes that it can be concluded that there is a connection between the benefits designed to improve the nutrition of workers and their families and the work performed or service provided by virtue of a contract of employment. These "benefits", however they are termed (bonuses, supplementary benefits, etc.), constitute components of remuneration in the sense of *Article 1* of the Convention. They therefore have to be subject to the measures set out in *Articles 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15 and 16* of the Convention. The Committee notes in this respect that the protection envisaged under Article 7 of the Convention is provided in law by Decree No. 1478 above.

In the absence of further information in this regard, the Committee requests the Government to indicate the measures which have been taken or are envisaged to ensure that the benefits provided by virtue of Decrees Nos. 1477/89 and 1478/89 are covered by the protection established in Chapter IV (Protection and payment of remuneration) of Title IV (Workers' remuneration) of the Consolidated text of the rules governing contracts of employment.

2. The Committee also noted earlier the CTA's allegations that, two years after the adoption of Act No. 23982 respecting the consolidation of the monetary debts of the State up to 1 April 1991 after administrative or judicial recognition, no certificate had been issued recognizing that the debt was owing. The Committee noted that the Government referred to Decree No. 1639/93 of 4 August 1993, which is intended to speed up the procedures for the settlement of consolidated debt recognized by the courts. It again requests the Government to indicate whether the debt to which it refers in the above Decree also includes the wage arrears owed to workers in the public sector.

3. In its previous observations, the Committee further noted the comments made by the Confederation of Educational Workers (CTERA) and the Union of Educational Workers of Rio Negro, concerning the deferred payment of wages which are due.

The Committee notes that the Government has provided, in response to the latter comments, the explanations made by the Provincial Council of Education (of Rio Negro) on the situation. The Committee notes that the said Council considers that the main allegation was about the non-payment of wages by the provincial government for the days on which the education workers refrained from working and develops justifications, based on provincial court cases, for such non-payment corresponding to the days not worked.

The Committee recalls however that both the CTERA and the Union of Educational Workers of Rio Negro referred in their comments to a generalized failure by the provincial governments (of Entre Rios and of Rio Negro, respectively) to pay the wages due in time. The CTERA mentioned in particular Decree of the Province of Entre Rios No. 5863/94 concerning deferred payment. The Committee notes that by virtue of section 2 of this Decree, wages of public employees are paid according to a plan prepared by the Secretariat of Finance in relation with the available financial resources, but not later than the fifteenth day of the month following the one in which they become due. The Committee recalls that, under Paragraph 4 of Recommendation No. 85, the maximum intervals for the payment of wages should ensure that wages are paid not less often than twice a month at intervals not exceeding 16 days in the case of workers whose wages are calculated by the hour, day or week; and not less often than once a month in the case of employed persons whose remuneration is fixed on a monthly or annual basis. It therefore requests the Government to supply detailed information on the situation in question, in particular the application in practice of the above Decree, and any measures taken to ensure the regular payment of wages in accordance with *Article 12(1) of the Convention*.

4. Furthermore, the Committee noted in the previous observation comments made by the Union of United Maritime Workers (SOMU), including reference to deferred payment and non-payment of wages in the maritime sector. The Government responded in a communication dated 19 July 1995 stating that the questions referred to are not well clarified. In the meantime, SOMU sent to the Office another communication dated 14 August 1995 referring to the same Decrees (Nos. 1772/92, 817/92 and 1493/92) as mentioned in the previous comments. The Committee notes that these comments cover various issues which may have bearing on the application of several Conventions. As far as the protection of wages under this Convention is concerned, the Committee notes that these comments include allegation of non-observance of *Article 12(1)* of the Convention concerning the regular payment of wages (for example, the SOMU refers to delayed payment of the entitlements in the letter to the Minister of Labour dated 5 July 1995), although no further details on particular cases are supplied. The Committee therefore requests the Government to provide a general account of the practical application of the Convention in the maritime sector, and information on any difficulties encountered, including, for instance, extracts from official inspection reports and information on any infringements observed and sanctions applied with regard to the payment of wages.

5. Since its previous session, the Committee has further received observations from the World Federation of Trade Unions, which refers to widespread protests of state employees in Cordoba over the non-payment of wages and the decision of the provincial government of Cordoba to pay their wages in local government bonds. As the Government has not provided its observations on this issue, the Committee invites it to do so in the light of *Articles 3 (payment of wages in legal tender) and 12(1) (regular payment of wages)*.

[The Government is asked to supply full particulars to the Conference at its 83rd Session.]

Costa Rica (ratification: 1960)

The Committee notes the comments made by the Association of Customs Officers (ASEPA) in a communication dated 12 October 1995. It notes that, although the ASEPA mentions Convention No. 95 among others, there is no clear information in the communication that would enable the Committee to judge whether there has been any infringement of the provisions of the Convention. The Committee nevertheless requests the Government to refer to a question raised in the direct request among other points.

[The Government is asked to report in detail in 1996.]

Dominica (ratification: 1983)

The Committee notes that as the Government's report gives no reply to the earlier direct requests, the Committee must return to the question in a new direct request. It hopes that the Government will do its utmost to take the necessary steps and supply the information requested.

[The Government is asked to report in detail in 1996.]

Egypt (ratification: 1960)

Further to its previous comments on *Article 4, paragraph 2, of the Convention*, the Committee notes the Government's indication that it is in the process of preparing a new

Labour Code which will include measures necessary to ensure (i) that allowances in kind should be appropriate for the personal use and benefit of the worker and his or her family and (ii) that the value attributed to such allowances should be fair and reasonable. The Committee hopes that necessary action will be taken in the very near future to ensure the compliance with the Convention on this point, on which it has been commenting for a number of years.

Gabon (ratification: 1960)

The Committee notes the Government's report and the new Labour Code.

With reference to its previous comments on *Article 8 of the Convention*, the Committee notes with satisfaction that the second paragraph of section 161 of the revised Labour Code (Act No. 3/94 of 21 November 1994) requires that the consent of the worker to deductions from wages be given before the head of the nearest administrative unit, in the absence of a magistrate or labour inspector. A request on certain other matters is being addressed directly to the Government.

Greece (ratification: 1955)

In its previous observations, the Committee requested the Government to take the necessary measures to bring the relevant legislation into conformity with the provisions of *Articles 4 and 7, paragraph 2, of the Convention* (concerning payment of wages in kind and prices charged in works stores, respectively). It recalls that for many years the Government has been stating its intention to amend the legislation appropriately.

In regard to *Article 4*, the Committee notes the information to the effect that certain collective agreements, of which copies are attached to the report, provide for the allotment of certain goods such as food products, clothing, or accommodation in addition to wages in cash. The Government adds that in the agricultural sector where total or partial payment of wages in kind was traditionally in force, this practice applies only to short-term hiring due to the seasonal nature of the work and would not concern salaried employees. On this point, the Committee recalls that, by virtue of *Article 2, paragraph 1 of the Convention*, the Convention applies to all persons to whom wages (as defined in *Article 1*) are paid or payable. The Convention covers not only workers classed as "salaried employees" but also all those who receive payment, including seasonal workers in the agricultural sector.

In regard to *Article 7, paragraph 2*, the Government indicates that in national practice the goods in employers' stores are sold at low prices and that the labour inspectorate has found no problem concerning this system.

The Committee notes the above information. It notes that the Government's report contains no information on amendments of the legal provisions as announced previously by the Government. It requests the Government once again to indicate the necessary measures taken in order to bring the relevant legislation into conformity with the aforementioned provisions of the Convention concerning payment of wages in kind and prices charged in the stores or services established by the employer.

Kyrgyzstan (ratification: 1992)

The Committee notes the detailed information supplied by the Government in its report, including texts of relevant legislation and descriptions of the application of the Convention in practice. The Government refers in particular to difficulties in applying *Articles 4 (regulation of wage payment in kind), 7 (works stores and services), 8 (deductions from wages), 10 (attachment and assignment of wages) and 12 (regular* *payment of wages and the final settlement) of the Convention*. The Committee notes this information with concern and hopes that the Government will take all possible measures to overcome these difficulties.

The Committee, however, appreciates the Government's attitude about providing information on the problems it is faced with and suggests that the Government request technical assistance of the Office. It would be grateful if the Government would continue to communicate information on the measures taken or envisaged in this regard as well as on any improvement in the situation. The Committee also asks the Government to provide information on particular points raised in the request which it is addressing directly to the Government.

Libyan Arab Jamahiriya (ratification: 1962)

The Committee notes the observations made by the Palestine Trade Unions' Federation, and by the International Confederation of Free Trade Unions, which were subsequently received and transmitted to the Government for comments in October 1995.

In their observations, both these organizations express concern at the situation in which hundreds, or even thousands, of Palestinian workers are recently being forced to leave Libya without receiving payment of all the entitlements due to them. The Committee recalls that *Article 12, paragraph 2, of the Convention* requires a final settlement of all wages due to be effected.

The Government indicates in response to these observations that it adopted since the beginning of 1995 regulatory measures to register and control the presence of foreign workers in the country, including the expulsion of illegal immigrants and that information on these measures was disseminated through media as well as diplomatic channels. The Government states that the Palestinian workers, who had no homeland, used to enjoy special benefits, for example, the access to certain posts of employment reserved normally for Libyan nationals, that, since the conclusion of the latest agreement between the Israeli authorities in occupied territories and the PLO and the declaration of setting up a Palestinian State, this special treatment was abolished, that Palestinians are now treated in a similar manner to other nationalities in employment procedures and that expiring contracts have not been renewed. The Government adds that all the entitlements of Palestinians working with employment permits and formal contracts are respected at the expiry of their contract, including the entitlements arising both from employment and from the social security.

The Committee takes due note of the information. It recalls that by virtue of *Article 2(1) of the Convention*, it applies to all persons to whom wages are paid or payable, and that the term "wages" is defined in *Article 1* as "remuneration or earnings, however designated or calculated, ... which are payable in virtue of a written or unwritten contract of employment ... for work done or to be done or for service rendered or to be rendered". Noting that the Government's above assurance of the final settlement of wages at the expiry of a contract (in accordance with *Article 12(2)*) relates only to a part of the scope of the Convention (workers with employment permits and formal contracts), the Committee requests the Government to supply further information on the final settlement of wages of workers other than those mentioned above, and any measures taken to ensure such final settlement.

The Committee is also addressing a direct request to the Government on certain other points.

[The Government is asked to supply full particulars to the Conference at its 83rd Session.]

Mauritania (ratification: 1961)

The Committee notes the Government's report, the information it supplied to the Conference Committee in June 1995 and the ensuing discussion on that occasion.

In its previous comments, the Committee referred to the conclusions in the report of the committee set up to examine the representation made by the National Confederation of Workers of Senegal under article 24 of the ILO Constitution which deals, among other things, with the application of this Convention. In the committee's said report, adopted by the Governing Body at its 249th Session (February-March 1991, *Official Bulletin*, Vol. LXXIV, 1991, Series B, Supplement No. 1), the Government is asked to take all the necessary measures with a view to a final settlement of all the wages due to the persons who were obliged to leave Mauritania following the events of April 1989, in accordance with *Article 12, paragraph 2, of the Convention*. The Committee therefore asked the Government to provide detailed information on all measures taken or envisaged to settle the above problem and the result.

The Committee notes that the Government refers again in its last report to the process of normalization of relations between Mauritania and Senegal since the reopening of the frontiers in May 1992 and to the joint commissions established to settle various issues.

Furthermore, the Government states in its report that no claim from foreign workers relating to the entitlements they were unable to obtain from their employers has been recorded by the labour administration and that any person who considers he or she has not received the entitlements may apply directly to the competent administrative or judiciary authorities.

The Committee recalls the conclusions adopted by the ILO Governing Body to the effect that, according to the Government statement and the circumstances in which the workers concerned left, it was very probable that final settlement of salary due could not be made in accordance with the relevant provisions of the Convention or of national legislation. Consequently, the Government should take all necessary measures with a view to establishing or having established the amounts due to the workers concerned and to making or having made the final settlement of wages due.

The Committee asks the Government to provide detailed information on all the measures taken or envisaged to establish the amounts due to the workers who were expelled and to make final settlement of the wages due. In particular, it requests the Government to mention any development relating to ILO technical assistance, which the Government stated to the Conference Committee in 1995 it was ready to accept, as recommended to it by the Conference Committee, with a view to settling the wages due to the workers concerned.

Nicaragua (ratification: 1976)

The Committee notes that the Governing Body adopted at its 264th Session (November 1995), the report of the committee set up to examine the representation made by the Latin American Central of Workers (CLAT) under article 24 of the Constitution, alleging non-observance of certain Conventions including Convention No. 95 by Nicaragua. In the above report, the Government is requested to take the necessary measures, in accordance with *Articles 12(1) and 15(c) of the Convention*, to ensure compliance by all enterprises with the legislative provisions such as the Labour Code relating to the protection of wages, and in particular the regular payment of wages. Furthermore, the Government is asked to submit full information on the measures taken so that the Committee of Experts can follow up the issue. The Committee requests the

Government to supply information on measures taken pursuant to these recommendations.

The Committee is also addressing a direct request on certain other points.

[The Government is asked to report in detail in 1996.]

Russian Federation (ratification: 1961)

Further to its previous observation concerning the application of *Article 12(1) of the Convention*, the Committee notes the comments made in a letter dated 21 March 1995 by the Trade Union Committee of the Far-East Plant "Zvezda", which states that wages have been paid with a delay of two to three months for a long period of time. It has also received comments from the Federation of Independent Trade Unions of Russia dated 4 November 1995, which points out the aggravation of the situation as regards the payment of wages. The latter organization refers to the Government's attitude which, for example, led to the de facto cancellation of the provision on the reservation of 30 per cent of the average of the bank accounts of enterprises for the payment of wages. The Committee also notes the information supplied by the Government representative and the discussion that took place in the Conference Committee in June 1995.

In the above information, the Government again refers, as reasons for the difficulties of applying the Convention in this respect, to the country's transition to a market-based economy and the continuing decline in production, as well as to the breakdown of the system of mutual payment between enterprises and the destruction of technological and economical network in the country. It further refers to various measures, including some in the form of Presidential Decrees, taken to regularize payment and to reinforce supervision of compliance with the wage-payment obligations.

The Committee notes that most of information on the measures brought by the Government representative to the Conference Committee had already been noted in the Committee's previous observation. It however notes with interest the Government's indication that a Bill had been adopted to amend the Labour Code concerning sanctions for violation of the Code, in particular in the case of unpaid or late payment of wages and that a law was adopted in third reading by the Duma (the lower house of Parliament) concerning the compensation to be paid to the citizens for material loss for unpaid or late payment of wages.

The Committee recalls that the present problem concerns the implementation in practice of the national labour legislation which gives effect to the Convention. It again emphasizes that the effective application of the Convention, through the national provisions giving effect to it, should comprise three principal aspects: supervision, appropriate penalties to prevent and punish infringements and steps to make good the prejudice suffered. In this connection, the Committee notes with concern the statement by the Government representative in the Conference Committee that some directors of certain enterprises were taking advantage of the difficult economic situation by avoiding wage payment and using the money for private purposes. It shares the view of the Conference Committee that the measures to ensure the application of the Convention would in fact contribute to the process of economic transition.

Noting the reference made by the Worker member of the Russian Federation in the 1995 Conference Committee to the difficulties in applying other provisions of the Convention such as: *Article 3* concerning the prohibition of payment with promissory notes or coupons; *Article 4* concerning the regulation of payment in kind; *Article 11* on the treatment of wages as privileged credit in the case of bankruptcy; and *Article 15* on the sanctions in case of violation, the Committee requests the Government to indicate measures taken or envisaged to ensure not only the regular payment of wages but also the application of all the provisions of the Convention. It asks the Government to supply information in particular on the draft legislative provisions concerning sanctions and compensation mentioned above, and other measures for ensuring the application of relevant provisions in practice. It also requests the Government to include, for instance, extracts from official reports that show the number of investigations made, infringements observed and penalties imposed.

The Committee is also addressing a direct request to the Government on certain points.

Syrian Arab Republic (ratification: 1957)

Articles 8(1) and 11(1) of the Convention. In its earlier observation, the Committee noted a revised draft Legislative Decree to amend certain provisions of the Labour Code, of which section 88(a) as amended would extend the wage protection under certain provisions (respecting limitations on deductions from wages and the protection of wages in cases of employer's bankruptcy) to temporary workers who are excluded from the coverage of the rest of the provisions of Book II, Chapter II, of the Code.

The Committee takes note of a new letter of the Minister of Social Affairs and Employment addressed to the Minister of the Presidency's Affairs, a copy of which is attached to the Government's report, asking information again on the status of the said draft Legislative Decree.

The Committee hopes that the Legislative Decree will be adopted in the near future and requests the Government to furnish a copy once it has been adopted.

Ukraine (ratification: 1961)

The Committee notes the observations made by the Kharkov City Committee of Trade Union of the Ukrainian National Academy of Sciences pointing out the non-payment of wages for four months (June to September), which was affecting 5,000 families of the state employees of National Academy institutions. The Committee recalls that it previously noted the observations made by the Republican Council of the Trade Union of Workers of the Coalmining Industry of Ukraine with regard to a similar problem as well as the information supplied by the Government in response on various measures it had taken so as to ensure the timely payment of wages in accordance with *Article 12(1) of the Convention.*

The Committee recalls that the present problem concerns the implementation in practice of the national labour legislation which gives effect to the Convention. It again emphasizes that the effective application of the Convention, through the national provisions giving effect to it, should comprise three principal aspects: supervision, appropriate penalties to prevent and punish infringements and steps to make good the prejudice suffered.

Noting that the Government has not provided comments on the situation in Kharkov, the Committee invites it to do so. It hopes that the Government will continue to take all measures to ensure the regular payment of wages and will supply information on them with particular reference to legislative and other measures for ensuring the application of relevant provisions in practice. Please also include, for instance, extracts from official reports that show the number of investigations made, infringements observed and penalties imposed.

Besides, the Committee recalls that the Government referred in its previous report among various measures, to the Decree issued by the President of the Ukraine on 14

September 1994, No. 53/94, concerning the issuing and circulating of promissory notes to cover the mutual debts of entrepreneurs and enterprises in Ukraine. Recalling that under *Article 3 of the Convention* the payment of wages in the form of promissory notes should be prohibited, the Committee asks the Government to supply a copy of this Decree and to indicate whether such promissory notes have also been used for the payment of wages.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Azerbaijan, Bulgaria, Chad, Comoros, Costa Rica, Czech Republic, Djibouti, Dominica, Gabon, Grenada, Islamic Republic of Iran, Italy, Kyrgyzstan, Lebanon, Libyan Arab Jamahiriya, Madagascar, Nicaragua, Niger, Panama, Paraguay, Russian Federation, Saint Lucia, Slovakia, Solomon Islands, Tajikistan, Uganda, Ukraine, Yemen, Zaire.*

Information supplied by *Guatemala* in answer to a direct request has been noted by the Committee.

Convention No. 96: Fee-Charging Employment Agencies (Revised), 1949

Syrian Arab Republic (ratification: 1957)

Part II of the Convention. The Committee notes from the Government's reply to its earlier comments that the Bill drafted to repeal sections 18 and 22 of the Labour Code (Act No. 91 of 1959), which authorized the setting up of private employment agencies, and to amend section 11 of the Code so as to extend to domestic and similar workers the application of the chapter concerning placement of unemployed persons, has not yet been adopted. The Committee is therefore bound to reiterate the comments it has been making over a number of years regarding the need to bring the legislation into full conformity with the Convention. It once again expresses firm hope that the above-mentioned Bill will be adopted in the nearest future and that it will contain the above provisions with a view to giving effect to this Part of the Convention. The Committee asks the Government to provide, in its next report, information on any progress made in this connection.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Côte d'Ivoire, France, Spain.*

Convention No. 97: Migration for Employment (Revised), 1949

France (ratification: 1954)

The Committee notes the detailed information provided in the Government's report and the observations made by the French Democratic Confederation of Labour (CFDT) and the General Confederation of Labour-*Force Ouvrière* (CGT-FO).

Article 6, paragraph 1(b), of the Convention (in conjunction with *Article 11*). The Committee notes the observations made by the CFDT and the CGT-FO concerning the amendments made to the Social Security Code by Act No. 93-1027 of 24 August 1993 respecting immigration controls and entry, reception and residence requirements for foreigners in France (sections 32 and 35), which establishes the obligation of lawful residence for entitlement to benefits, which has the effect of denying any entitlement to social security benefits in respect of a person who is not legally resident. The Committee also notes the Government's statement that none of the provisions of the above Act bring into question the principle of equality of treatment for foreigners who are residing or staying lawfully on French territory.

The Committee recalls that Article 11 of the Convention provides that, for the purpose of the provisions of this instrument, the term "migrant for employment" includes any person regularly admitted as a migrant for employment. It therefore appears that while, by virtue of these provisions of the Convention, it is incumbent upon a State party to guarantee to any person regularly admitted as a migrant for employment, treatment in respect of social security that is not less favourable than that which it applies to its own nationals, the same guarantee in respect of persons who are not lawfully in the country is not an obligation under the Convention. The Committee notes that, under section L 115.6 of the Social Security Code, as amended by the above law, the contributions of persons who have not been legally admitted under the legislation on the stay and the work of foreigners remain due to them.

The Committee suggests the Government to take into consideration the provisions of paragraph 34(1) of the Recommendation concerning Migrant Workers, 1975 (No. 151), under which a migrant worker who leaves the country of employment should be entitled, irrespective of the legality of his stay therein, to the reimbursement of any social security contributions which have not given rise to rights in his favour.

The Committee is addressing a request directly to the Government on other matters.

Malaysia (ratification: 1964)

The Committee takes note of the information provided by the Government in reply to its previous comments.

Article 6, paragraph 1(b) of the Convention. The Committee notes the information contained in the Government's report, particularly the information which the Committee had requested concerning accident compensation coverage for foreign workers which was transferred from the Employees' Social Security Scheme (governed by the Employees' Social Security Act, 1969) to the Workmen's Compensation Scheme (governed by the Workmen's Compensation Act, 1952), as of 1 April 1993. The Government explains that this transfer was due to administrative considerations, especially control and monitoring of long-term benefit payments. According to the Government's report other workers covered under the Workmen's Compensation Scheme include those in the public sector and workers in the private sector in establishments employing less than five workers before July 1992.

The Committee notes from a review of the two schemes that the level of benefits in case of industrial accident provided under the Employees' Social Security Scheme is substantially higher than that provided under the Workmen's Compensation Scheme. For example, under the Employee's Social Security Scheme a permanently disabled worker is entitled to a cash benefit of 90 per cent of his "assumed average daily wage" (section 22b in conjunction with the fourth schedule of the Employees' Social Security Act) whereas under the Workmen's Compensation Act (section 8) the permanently disabled worker is entitled to a lump-sum payment of only 62 months salary or 19,200 ringgits, whichever of these being less than the benefit under the other scheme.

The Committee recalls that *Article 6, paragraph 1(b) of the Convention* requires that a ratifying State applies, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of employment injury. The general transfer of foreign workers working in the private sector from the Employees' Social Security Scheme to the Workmen's Compensation Scheme is thus not in conformity with this provision. The Committee hopes that the Government will take the necessary steps in the near future to place foreign workers back under the Employee's Social Security Scheme under the same conditions as nationals, thereby providing them equal treatment under the law as far as compensation for industrial accident is concerned.

[The Government is asked to reply in detail in 1996.]

Zambia (ratification: 1964)

The Committee notes the information supplied by the Government in reply to its previous observation.

The Committee recalls that, in the comments that it has been making for many years, it has emphasized the need to amend the Second Schedule to the Zambia National Provident Act in order to ensure to foreign workers lawfully within the territory treatment no less favourable than that which it applies to its nationals in respect of social security, in accordance with *Article 6, paragraph 1(b), of the Convention*, and to restrict any exclusion from the Zambia National Provident Fund to foreign workers engaged on short-term contracts and under specific conditions of work who already benefit from more advantageous social security coverage in their country of origin. The Committee notes the Government's statement to the effect that the substantial delay encountered in the development of a new national social security scheme is due to logistical problems. The Government is requesting the technical assistance of the Office for this purpose.

The Committee notes that an ILO technical assistance project in the field of social security is being implemented in the country and that the Government can benefit from its assistance to resolve the above problems related to bringing the national provisions respecting the National Provident Fund into conformity with the provisions of *Article 6, paragraph 1(b), of the Convention*.

The Committee hopes that the Government will soon report the progress achieved in this respect.

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In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Barbados, Cameroon, Cyprus, Dominica, France, Grenada, Italy, Jamaica, Malawi, Saint Lucia, Venezuela*.

Convention No. 98: Right to Organize and Collective Bargaining, 1949

Argentina (ratification: 1956)

The Committee notes the Government's report and recalls that its previous comments concerned the obligation that collective agreements, in order to be approved, should not contain "clauses which infringe the norms of public order or standards issued in the protection of the general interest" (section 3 of Act No. 23545 of 22 December 1987). The Committee requested the Government to inform it of any measure which is envisaged or adopted to encourage the voluntary negotiation of terms and conditions of employment without impediment in both the public and the private sectors.

In this respect, the Committee notes with interest that section 3bis (c) of Decree No. 470/93 of 18 March 1993, respecting collective labour agreements, provides that works collective labour agreements concluded by a trade union association covering the occupation in which the enterprise is active do not require approval. The Committee also takes due note of the indication in the report that the Government is endeavouring, to the extent that it is possible under the current economic conditions, to bring together the parties to the various collective labour agreements, particularly in the public sector, with a view to developing agreed standards through direct negotiations which are adapted to the current and more permissive social and economic circumstances, and to the potential of each sector. In this respect, the Government points to the ratification in 1993 of the Collective Bargaining Convention, 1981 (No. 154).

Nevertheless, the Committee regrets to note that other agreements, when they are concluded at the enterprise level, have to be approved by the Ministry of Labour in order to enter into force, in accordance with section 6 of Act No. 23546 of 22 December 1987, and also that under section 3ter of Decree No. 470/93, for the purposes of approval, the Ministry of Labour has to take into account whether the collective agreement contains clauses infringing the norms of public order and the criteria of productivity, investment, the introduction of technology, the system of vocational training as well as the provisions of the legislation that is in force.

Furthermore, the Committee recalls that in its previous comments it referred to the observations made by various trade union organizations from different sectors criticizing the restrictive Government policy with regard to the negotiation of wages, which were conditional on increases in productivity. These included the comments of the United Teachers' Trade Union of Buenos Aires, of March 1992, the Trade Union of United Seafarers (SOMU), of March 1993 and December 1994, and the Argentinian Congress of Workers (CTA), of June 1993, concerning the restrictions on collective bargaining in various sectors (public enterprises, the maritime and education sectors and the private sector), and particularly concerning Decree No. 1334/91 of 15 July 1991, which restricts any wage negotiations to the increase in productivity, with the exclusion of any other parameter; Decree No. 1757/90 of 5 July 1990, which permits the nullification of clauses in collective agreements which in the opinion of the State are prejudicial to the productivity and efficiency of public enterprises; Decree No. 435/90 of 4 March 1990, which fixes a maximum wage for all public activities, irrespective of whether or not they are covered by a collective agreement; and Decree No. 817/92 of 26 May 1992, which suspends the application of clauses in collective agreements or in legislation which establish conditions of employment that are prejudicial to productivity in the merchant navy and port sector; and Decree No. 1264 of 24 July 1992, which suspends collective labour agreements covering the maritime, river and lake transport sector for passengers, cargoes and fishing, as well as all port activities.

In this respect, the Committee also takes due note of the information supplied by the Government, particularly regarding the restrictions on collective bargaining in the shipping sector, to the effect that the Ministry of Labour and Social Security has adopted a policy of dialogue in the framework of the Tripartite Consultation Commission for the Application of International Labour Standards (Convention No. 144). The objective in this respect is for the parties to sectoral collective agreements who would be affected by Decree No. 817 to conclude agreements through direct and voluntary negotiation to resolve the differences that currently exist, particularly through the adaptation of agreements to the current social and economic circumstances and the potential of the shipping industry.

The Committee notes the detailed information provided by the Government, and particularly the developments in the system for the registration of enterprise level collective agreements without the need for approval, and the policy adopted by the

Government with regard to collective bargaining, based on free discussion with the parties concerned, especially in the context of the Tripartite Consultation Commission for the Application of International Labour Standards (Convention No. 144) as they relate to the shipping sector. The Committee hopes to be able to note concrete results in the near future in both law and practice for the encouragement and promotion without impediment of the voluntary negotiation of terms and conditions of employment, in both the public and the private sectors, without interference by the public authorities.

The Committee requests the Government to inform it in its next report of any developments in this respect.

Australia (ratification: 1973)

The Committee takes note of the Government's report. It notes that the major development which has occurred in relation to the Convention during the reporting period concerns the amendment of the Industrial Relations Act, 1988, by the Industrial Relations Reform Act, 1993. It proposes to examine the compatibility of law and practice with the Convention after the Committee on Freedom of Association has examined a complaint (Case No. 1774) against the Government of Australia presented by the Australian Chamber of Commerce and Industry which alleges, amongst others, violations of the rights enshrined in the Convention as a result of the Industrial Relations Act, 1988, as amended.

Austria (ratification: 1957)

The Committee notes the information supplied by the Government in its reports.

Referring to the comments that it has been making for many years concerning the need to extend the protection against unlawful dismissals (especially for trade union activities) to workers in enterprises with fewer than five employees, the Committee notes with satisfaction that the Supreme Court, in its ruling of 11 August 1993, 9ObA 200/93, pronounced that section 879 ABGB which stipulates that "A contract which contravenes a statutory prohibition or the moral law is null and void ..." was also applicable to unilateral transactions and hence to *dismissals*. Thus, according to this ruling, the dismissal of an employee of an enterprise not subject to the establishment of a works council (enterprises with fewer than five employees) on account of trade union activities (a so-called "motivated" dismissal — *Motivkündigung*) is, according to section 879 ABGB, null and void, being a contravention of the moral law.

Bangladesh (ratification: 1972)

The Committee notes the information supplied by the Government in its report, as well as the statement made by the Government representative at the Conference Committee in June 1994 and the discussion which took place thereafter.

Voluntary bargaining in the private sector

The Committee had observed previously that section 7(2) of the Industrial Relations Ordinance, 1969 (IRO), read with sections 22 and 22A, could serve to impair the development of effective bargaining in the small business sector by inhibiting the development of industry or sectoral unions.

In response to the Committee's request the previous year for information on the measures taken in practice to encourage and promote collective bargaining, particularly in the small business sector, the Government indicates that in 1993 for instance, 209 collective bargaining agreements were concluded. However, in the small business sector where collective bargaining is not adequately developed, the Minimum Wages Board (MWB) determines minimum wages and other fringe benefits. Thus, minimum wages have been fixed in 38 industries, and those in other small businesses are in the process of being revised.

The Committee would once again point out, however, that collective bargaining is not developed in small establishments because sections 7(2), 22 and 22A of the IRO, 1969, appear to inhibit the establishment of "sectoral" or "industry" unions. It therefore once again requests the Government to take the necessary steps to remove the requirement: (a) in section 7(2) that, in order to be registered under the IRO, a trade union must have a membership of at least 30 per cent of the total number of workers in the establishment or group of establishments in which it is formed; and (b) in sections 22 and 22A of the IRO that only unions which are registered in accordance with section 7 may become collective bargaining agents.

Voluntary bargaining in the public sector

For some years the Committee has been expressing its concern in relation to the development of collective bargaining in the public sector, and in particular the practice of determining wage rates and other conditions of employment by means of government-appointed Wage Commissions.

In [illegible], the Government replies that although wages and fringe benefits are determined by wages and pay Commissions, the management of public and semi-public enterprises do negotiate with plant-level collective bargaining agents and their federations on problems and anomalies arising from the implementation of the recommendations of the various commissions. The Government, on a higher level, also negotiates informally with trade union federations; hence collective bargaining principles are very much respected in Bangladesh.

In the light of this reply, the Committee can only reiterate that conformity with *Article 4 of the Convention* requires that the Government take steps to encourage and promote the development and utilization of machinery for the voluntary negotiation of collective agreements; in this respect, it draws the Government's attention to paragraphs 244 to 248 and 261 to 265 of its 1994 General Survey on freedom of association and collective bargaining.

Protection against interference

While sections 15 and 16 of the IRO of 1969 are designed to provide protection against acts of anti-union discrimination, the Committee had asked the Government to review its legislation with a view to adopting an appropriate measure of protection against "acts of interference" for purposes of *Article 2* of the Convention, which seek to ensure that no employer or employee organizations may support any organization of workers by financial or other means with a view to placing such organization under the control of the employer organization.

The Government indicates that the tripartite National Labour Law Commission set up in 1992 has recommended that these provisions be amended for wider coverage; these recommendations are under the active consideration of the Government.

The Committee requests the Government to keep it informed of any developments in respect of such eventual amendments.

Denial of right to engage in collective bargaining for workers in export processing zones

The Committee had requested the Government to take steps to amend section 11A of the Bangladesh Export Processing Zones Authority Act 1980, since it denied workers in such zones (EPZs) the rights guaranteed by *Articles 1, 2 and 4* of the Convention.

The Government, in its report, repeats its argument that the said provision is intended to promote investment and generate employment opportunities and to improve the balance of payment position with added foreign exchange earnings needed for the growth of the economy. It adds that EPZs are now an issue not only in Bangladesh but also in an increasing number of countries in Asia, and are therefore a reality which cannot be ignored.

While aware that reasons of national economic development are behind the setting up of these EPZs, the Committee would once again stress that a blanket denial to a whole category of workers of the protections and rights defined in the Convention constitute a violation of the Convention. It also draws the Government's attention to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, adopted by the ILO Governing Body in 1977, which states in paragraph 45 that "where governments of host countries offer special incentives to attract foreign investment, these incentives should not include any limitation of the workers' freedom of association or the right to organize and bargain collectively". The Committee, therefore, would request the Government to take steps to amend the 1980 Act so as to bring it into conformity with the Convention.

Finally, the Committee understands from the statement of the Government representative at the Conference Committee in June 1994, that the recommendations of the National Labour Law Commission, which is tripartite in structure and includes eminent legal experts, deal with all the points mentioned in the Committee's previous report, and were submitted to the Prime Minister on 4 June 1994. In addition, the Tripartite Labour Committee headed by the Minister of Labour and Manpower, as well as the Parliamentary Standing Committee on Labour Matters (in which opposition parliamentary members are represented) would provide their input into the drafting of a comprehensive labour code.

The Committee would request the Government to keep it informed on any progress made in the preparation of this new labour code, including whether it contains all or some of the recommendations of the National Labour Law Commission. The Committee would further request the Government to provide it with a copy of this draft labour code once it has been fully drawn up.

Bolivia (ratification: 1973)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee recalls that its previous comments referred to:
>
> - the exclusion from the scope of the General Labour Act of agricultural workers (section 1 of the General Labour Act);
> - the absence of measures to protect workers who are not trade union leaders against acts of anti-union discrimination (Article 1 of the Convention);
> - the absence of measures to protect trade union organizations against acts of interference by employers (Article 2); and
> - a lack of information on collective bargaining.

> Although the Committee notes that, according to the Government, the preliminary draft of the General Labour Act has taken into account the Committee's comments, it can only regret the fact that, despite the time which has elapsed, the text has not been adopted.
>
> The Committee once again hopes that the new General Labour Act will protect all workers, including permanent and temporary agricultural workers, against acts of anti-union discrimination, will protect their organizations against acts of interference by employers, and will be combined with effective and sufficiently dissuasive sanctions, and that the above Act will be approved in the near future. The Committee requests the Government to supply information in its next report on collective bargaining in the agricultural sector (collective agreements concluded and statistics) and on the progress made in the adoption of the preliminary draft text of the General Labour Act.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Brazil (ratification: 1952)

The Committee notes the Government's report and recalls that its previous comments referred to the following matters.

The Committee had requested the Government to provide the texts of all the provisions adopted with each report, and particularly those relating to wage policy and the fixing and adjustment of wages.

In this respect, the Committee notes that on 28 July 1995, the Government adopted Interim Provision No. 1079 containing supplementary provisions to the "Real Plan" (the economic stabilization plan adopted in 1994), governing the adjustment of wages and collective bargaining, and repealing all provisions in force on these questions up to the date of its publication. In this context, the Committee notes with interest that section 8(1) of the above Interim Provision provides that, as from 1 July 1995, the obligations and agreements based on the consumer prices index will instead be based on the index specified in each contract. Furthermore, section 10 provides that wages and other conditions of employment will continue to be determined or revised on the respective expiry date through free collective bargaining.

Nevertheless, the Committee notes that section 8(2) of Interim Provision No. 1079 provides that in the event that no substitute price index has been established, and where the parties have not agreed on one, a measure of the price index covering the whole nation shall be used as set out in regulations *to be issued by the Executive Authority*.

The Committee had also reminded the Government of the need to repeal the general provisions which are inconsistent with Article 4 of the Convention, and particularly section 623 of the "Consolidation of Labour Laws", as amended by Act No. 5584 of 26 June 1970 and Legislative Decree No. 229 of 28 February 1967, which confer extensive powers on the authorities to cancel collective agreements or arbitration awards that are not consistent with the rules set by the Government's wages policy.

In this respect, the Committee notes the information supplied by the Government concerning its intention to make collective bargaining a fundamental instrument of the rules of wages policy, and the indication that labour legislation in Brazil will have to undergo profound modifications in order to be in conformity with the constitutional principle of freedom of association and bargaining, as well as the new guidelines concerning the organization of production and work.

On this point, the Committee notes that on 10 August 1995 the Minister of Labour established a Permanent Commission on Labour Legislation, composed of national jurists specializing in labour law, the principal responsibility of which is to examine issues related to labour relations which, because of their importance and urgency require proposals and action by the Ministry of Labour, as well as to examine draft legislation, issue opinions on international Conventions and Recommendations and prepare reports for the ILO.

The Committee hopes that the above constitutes an appropriate framework within which the Government will adopt specific measures in the near future in order to encourage and promote, in both law and practice, the full development and utilization of machinery for voluntary negotiation between workers' and employers' organizations with a view to the regulation of terms and conditions of employment by means of collective agreements, as provided in *Article 4 of the Convention*.

The Committee regrets to note that the Government has not provided information on Bill No. 821 of 21 April 1991; it also notes Bill No. 1232-A/91 respecting collective bargaining, to which reference was made in the report on Convention No. 154, which has been ratified by Brazil. The Committee requests the Government to clarify the situation with regard to these Bills and to provide copies of them when they are adopted.

Cameroon (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 1, paragraph 2, of the Convention.* The Committee expresses the firm hope that sections 6(2) and 166 of the 1992 Labour Code, under which a fine of from 50,000 to 500,000 francs may be imposed on members responsible for the administration or management of a non-registered union, who act as if the union were registered, will be repealed in the near future so as to ensure that all workers, and particularly public employees, teachers, persons who form trade unions and trade union leaders, have adequate protection against acts calculated to do them harm by reason of union membership or because of participation in union activities. The Committee asks the Government to provide in its next report the texts of any measures taken to this end.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Cape Verde (ratification: 1979)

The Committee notes the Government's report and recalls that its previous comments referred to the need to enact a decree to implement Legislative Decree No. 62/87 of 30 June 1987 respecting collective bargaining and to provide copies of any existing collective agreements concluded.

The Committee notes the indication in the Government's report of the publication of Act No. 101/IV/93 of 31 December 1993 which amends sections 26 and 30 of the General Legal System of Labour Relations. The Committee notes that section 26, as amended, provides that demands and replies to them in collective bargaining must take into account questions of productivity, the financial situation of the enterprise and the evolution of inflation. Similarly, it lays down that parties to the negotiation process must act in conformity with principles of good faith. In regard to section 30, as amended, paragraph 4 lays down that the parties may, at any moment, conclude a collective agreement despite the existence of administrative decisions to regulate conditions of employment (compulsory arbitration), in accordance with paragraphs 1 and 2 of that section.

The Committee recalls that, having ratified the Convention, the Government is obliged to promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations on the one hand and workers' organizations on the other with a view to regulating the terms and conditions of employment not only through legislation but also by other appropriate measures in practice.

The Committee therefore regrets the Government's indication in that it was not possible to send the texts of agreements concluded since workers' and employers' organizations have not made use of the possibilities offered by national legislation for collective bargaining.

The Committee asks the Government once again to provide copies of any national, regional or local collective agreements in force.

Chad (ratification: 1960)

The Committee notes the Government's reports.

The Committee regrets that the draft Labour Code prepared in 1988 with ILO assistance has still not entered into force. It notes, however, the Government's statement that adoption of the draft Labour Code is imminent and is included in the priorities of the ministry responsible for labour and that, meanwhile, it does not intend to enact any legislation which would be contrary to the Convention.

The Committee recalls again the need to amend section 119 of the Labour Code which empowers the administration to intervene in the collective bargaining process, and sections 121 and 122 of the Labour Code concerning prior authorization for the entry into force of a collective agreement, in order to bring the legislation into conformity with *Article 4 of the Convention*.

The Committee requests the Government to take the necessary measures in the near future to amend its legislation in order to bring it into conformity with the Convention, to inform it in its next report of the progress made in the adoption of the new Labour Code and to send it a copy as soon as it has been adopted.

Colombia (ratification: 1976)

The Committee notes the Government's report and recalls that its previous comments referred to the prohibition placed on unions of "public employees" from concluding collective agreements (sections 414(4) and 416 of the Labour Code).

The Committee takes due note of the information provided in the report that the Government convened a tripartite dialogue committee to analyse various aspects of the current national legislation, including the issue of collective bargaining in the public sector. Nevertheless, the Committee regrets to note that the Bill to amend various provisions of labour law submitted recently by the Government to Congress does not cover sections 414(4) and 416 of the Labour Code.

The Committee once again urges the Government to take measures to amend the legislation so that "public employees", with the only possible exception of those who are engaged "in the administration of the State", are not denied the right to negotiate collectively their terms and conditions of employment, in accordance *Articles 4 and 6 of the Convention*.

The Committee hopes that the Government will keep it informed in its next report of the changes made to the legislation in this respect.

The Committee is addressing a direct request to the Government.

Costa Rica (ratification: 1960)

The Committee notes the Government's report and the conclusions of the Committee on Freedom of Association in Cases Nos. 1678 and 1695 concerning collective bargaining in the public sector (see 297th Report, paragraphs 421 to 430, approved by the Governing Body at its 262nd Session in March-April 1995), as well as in Case No. 1780 concerning allegations of anti-union dismissals (see 300th Report, paragraphs 130 to 143, approved by the Governing Body at its 264th Session in November 1995).

The Committee recalls that its previous comments related to the right to collective bargaining of public employees not engaged in the administration of the State. In its previous observation, the Committee had expressed the hope that the Bill on collective bargaining in the decentralized public sector would shortly be adopted and would be in line with the provisions of the Convention.

In this respect, the Committee notes with interest that, as indicated in its report, the Government submitted to the Legislative Assembly for approval the Bill on the Status of the Civil Service, which provides for the right to collective bargaining and to strike in the public sector, and is the result of consensus reached by the Government and public employees' organizations.

The Committee expresses the hope that the Bill on the Status of the Civil Service will be adopted in the near future and will be in line with the provisions of the Convention. The Committee requests the Government to keep it informed on the matter and to send it a copy of the text once it has been approved.

With reference to the allegations of dismissal of workers by an enterprise located in the free-trade zone of Costa Rica for having established the Trade Union of Construction, Metallurgical and Related Workers (SICMA) (Case No. 1780), the Committee, like the Committee on Freedom of Association, recommends that the Government take measures to ensure that whenever complaints are made of violations of trade union rights, workers in enterprises in free-trade zones, as well as elsewhere, benefit from speedy inquiry procedures with a view to providing effective protection (see paragraph 142 of the aforementioned 300th Report).

The Committee requests the Government to keep it informed of any measures adopted in this matter.

Côte d'Ivoire (ratification: 1960)

The Committee notes the Government's report and the adoption of Act No. 95/15 of 12 January 1995 issuing the Labour Code (*Journal officiel*, 23 February 1995, No. 8, pp. 153-177).

Articles 1 and 2 of the Convention. With reference to its previous comments concerning the need to ensure adequate protection for workers against acts of anti-trade union discrimination and of workers' organizations against acts of interference on the part of employers, enforceable by sufficiently effective and dissuasive sanctions, the Committee notes with interest that the Labour Code provides that no employer may take into consideration membership or non-membership of a trade union or trade union activities of workers for making decisions regarding, in particular, recruitment, conduct and distribution of work, vocational training, advancement, promotion, remuneration, granting of social benefits, discipline or termination of the employment contract (section 4) and that no employer may exert pressure against or in favour of any workers' trade union organization (section 51.3) and that violations of the Labour Code are liable to fines (section 100.4).

Nevertheless, the Committee considers on this last point that whereas section 100.5 punishes with sufficiently dissuasive sanctions the offences comprising measures of anti-union discrimination against *trade union delegates* and *staff delegates* (fines of 10,000 to 100,000 francs and imprisonment from two months to one year or one only of these two sanctions), the sanctions for anti-union discrimination against *workers* or for acts of interference by employers in workers' organizations should be strengthened.

The Committee requests the Government to indicate in its next report the measures taken or envisaged to strengthen the provisions for protecting workers and workers' organizations in this respect.

Croatia (ratification: 1991)

The Committee takes note of the report of the Government as well as of the information supplied to the Conference Committee in June 1995 and the discussion which took place thereafter.

The Committee takes due note of the information provided by the Government representative at the Conference Committee to the effect that the Decree on Wages of 3 October 1993 which contains a provision stating that it would become invalid if collective agreements were reached, expired on 31 October 1994. The Committee therefore requests the Government to provide it with a copy of the new Basic National Collective Agreement for the Business Sector and Public Enterprises and any other collective agreements actually in force.

The Committee notes with interest the adoption on 17 May 1995 of a new Labour Law (Narodne novine 38/95) which will enter into force as of 1 January 1996 and the provisions of which are generally in compliance with the Convention.

Articles 1 and 2 of the Convention. With regard to the protection against acts of anti-union discrimination, the Committee notes that specific provisions of the new Labour Law clearly state that no one shall be discriminated against because of his or her membership or non-membership of an association (sections 2, 108, 160 and 180). As regards protection against acts of interference, the Committee observes that employers and their associations do not have a right to control the establishment and operation of trade unions or their higher level associations, nor can they legally finance or in another way support trade unions or their higher level association in order to control them (section 177). Both protections against acts of anti-union discrimination and acts of interference are accompanied by penal sanctions ranging from 5,000 to 20,000 kunas in case of violation (section 228).

Article 4. As regards the measures put in place in order to encourage voluntary collective negotiations, the Committee observes that a joint trade union collective negotiations committee is set up if more than one trade union, or higher level association is present in a *territory* where a collective agreement is to be concluded (section 186). This committee is composed of representatives of those trade unions who shall set the number and composition of the collective negotiations committee. If trade unions are unable to reach an agreement as to the composition of the collective negotiations committee, the number of representatives of each trade union participating in the committee shall be set in accordance with the number of votes cast for a respective trade union. All members of all trade unions who are active in a territory for which a collective agreement is to be negotiated shall participate in the ballot. The Government adds in its report that the wording of section 186 was proposed by all-union headquarters, allowing therefore the unions to define the way in which their representation should be established. The Committee requests the Government to provide information in the application in practice of these provisions and to give details of the circumstances in which such negotiations committees have been set up, the territories and the number of workers covered and the outcome of the negotiations.

The Committee is also addressing a direct request to the Government.

Denmark (ratification: 1955)

The Committee takes note of the Government's report as well as the observations made by the Danish Union of Journalists (DJ) dated 22 November 1994 and 14 November 1995, and by the Danish Confederation of Professional Associations (AC) dated 3 August and 8 December 1994 and 16 November 1995. It further notes the conclusions of the Committee on Freedom of Association in Case No. 1725 (292nd Report, paragraphs 197 to 229) and in Case No. 1641 (294th Report, paragraphs 39 to 77).

1. In its previous comments, the Committee had noted that section 10 of Act No. 408 of 1988 limited the negotiating power of the Danish trade union organization to persons who were considered to be residents of Denmark, or who by virtue of international obligations were to be put on an equal footing with Danish citizens. It expressed regret that this section of the Act did not aim at encouraging and promoting voluntary negotiation between employers' and workers' organizations, and at allowing workers who were employed aboard Danish ships, but who were not residents of Denmark, to join the organization of their own choosing to defend their interests. The Government is asked once again to indicate in its next report any measures taken or contemplated to bring section 10 of the Act into full conformity, in this respect, with *Article 4 of the Convention*.

2. Concerning the issues raised in Case No. 1725, and the comments of the Danish Union of Journalists in relation to the extension of an agreement to the entire sector of activity contrary to the views of the organization representing most of the workers in the category covered by the extended agreement, the Committee notes the Government's intention to present a Bill to the next parliamentary session in this regard. It is essential that the legislation is amended at an early date so as to bring it into full conformity with *Article 4*.

3. The Committee notes the observations of the Danish Confederation of Professional Associations (AC) relating to the job offer scheme for unemployed persons participating in training programmes. This matter has already been examined by the Committee on Freedom of Association in Case No. 1641 which decided that the case did not call for further examination. The AC raises a number of reasons for its disagreement with this, all of which were taken into account by the Committee on Freedom of Association prior to the formulation of its conclusions. The present Committee therefore sees no reason to reopen the examination of the substantive elements in this case upon which the Committee on Freedom of Association has reached final conclusions.

Ecuador (ratification: 1959)

The Committee notes the Government's report and recalls that its previous comments concerned:

- lack of protection against anti-union discrimination at the time of recruitment; and
- the requirement that 50 per cent of all workers in the public sector who are covered by the Labour Code, or in the private sector working in the social or public spheres, must be in a negotiating body in order to submit a draft collective agreement (section 230, as amended, of the Labour Code).

The Committee notes with interest that, according to the information supplied by the Government, section 43(f), as amended, of the draft reforms to the Labour Code which is before Congress protect the worker against acts of anti-union discrimination at the time of recruitment.

The Committee regrets to observe that in its report the Government has not replied to its comment that the requirement of 50 per cent of those workers in the public sector, or in the private sector working in the social or public spheres (who are covered by the Labour Code), must be in a negotiating body in order to submit a draft collective agreement (section 230, as amended, of the Code) is too high.

The Committee indicates that when the conditions referring to the number of members of a trade union or to the voting powers of workers in a negotiating body are such that *the workers of a union may be deprived of the right to collective negotiation*, even when there exists one, or more, legally constituted trade union, this legislation should recognize that the union or unions have *the right to negotiate at least on behalf of their own members*. Further, the Committee recalls that even in those systems in which a negotiating agent must be designated exclusively, when no trade union can be designated as representative due to the lack of the required percentage, the most representative trade union in the body, although it may not represent 50 per cent, must be recognized as having the right to collective bargaining.

The Committee asks the Government once again to adopt, as soon as possible, the necessary measures so that both legislation and practice are in full conformity with the provisions of the Convention, and that the frequently announced approval of draft legal reforms should take place in the near future.

The Committee requests the Government in its next report to inform it of any progress made in connection with its previous comments.

The Committee is also sending a direct request to the Government.

Egypt (ratification: 1954)

The Committee notes the Government's report.

With reference to its previous comments on the need to amend section 87 of the Labour Code, as amended by Act No. 137 of 1981, which provides that any clause of a collective agreement which is liable to impair the economic interests of the country shall be null and void, the Committee again recalls that this requirement imposed under penalty of nullification restricts the scope of collective bargaining and is liable to undermine the principle of voluntary negotiation contained in *Article 4 of the Convention*. It indicated that in the event of economic difficulties the Government should resort to persuasion rather than constraint and that in any event the parties must remain free as to their final decisions.

The Government states in its report that Book IV, Chapter III, of the draft Labour Code currently being adopted covers collective agreements and that it no longer contains provisions similar to those of section 87 of the Labour Code of 1981.

The Committee once again requests the Government to indicate in its next report the *measures that have actually been taken* to amend section 87 of the Labour Code along the lines of the new draft Code in order to bring the legislation on this matter into conformity with the requirements of the Convention. It also requests the Government to provide a copy of the new Labour Code when it is adopted.

Ethiopia (ratification: 1963)

The Committee notes the information supplied by the Government in its report.

Articles 4 and 6 of the Convention. The Committee notes with satisfaction that the Constitution of 8 December 1994 grants civil servants the right to organize and to conclude agreements with their employers (section 42). The Committee observes that the

Government indicates in its report that specific legislation is being prepared to this end and will be sent to the ILO as soon as it is promulgated.

The Committee requests the Government to indicate in its next report any progress made towards adoption of legislation ensuring the recognition, both in law and in practice, of the right to voluntary negotiation of employment conditions for public servants, with the sole possible exception of those engaged in the administration of the State.

Fiji (ratification: 1974)

The Committee notes the information provided by the Government in its report.

1. *Article 2 of the Convention*. In its previous comments, the Committee had stressed the need to adopt specific measures, particularly through legislation, to guarantee adequate protection (accompanied by sufficiently effective and dissuasive sanctions) to workers' organizations against any act of interference by employers or their organizations. The Government indicates that workers' organizations have made submissions to it on the pieces of legislation that need to be amended in this respect. These will be looked into by the Government before appropriate recommendations are made to the Labour Advisory Board.

The Committee requests the Government to keep it informed of the content of these recommendations after their submission to the Labour Advisory Board.

2. *Articles 3 and 4*. (a) In relation to the previous comments of the Fiji Trade Union Congress (FTUC) that the Tripartite Forum had not been reactivated for some time, the Committee notes the Government's statement that the Tripartite Forum has now been reactivated and the parties are working out the terms of reference of the Forum. It is envisaged that the Forum's functions will also include wider social and economic issues, in addition to labour matters.

(b) In response to the FTUC's previous comments that collective bargaining was hampered by employer refusal to recognize independent unions, an example of which was the Vatukoula Joint Mining Company refusing to recognize a registered Fiji Mineworkers' Union, the Government states that the Commissioner of Inquiry into the Vatukoula mines has submitted his report to the Minister for Labour and Industrial Relations and details of that report have not been released as yet. The Committee requests the Government to keep it informed of the conclusions of the Commissioner's report once it has been made public.

(c) In its previous comments, the Committee had noted that the Trade Union (Recognition) Act was silent as to the position of a majority union which did not cover 50 per cent of the employees in a bargaining unit and it had recalled that if under a system of nominating an exclusive bargaining agent there was no union covering more than 50 per cent of the workers, collective bargaining rights should be granted to all the unions in this unit, at least on behalf of their own members (1994 General Survey on freedom of association and collective bargaining, paragraph 241).

The Government points out that with the amendment of the above Act, there are now a multiplicity of unions in one undertaking which are all granted bargaining rights. The Committee requests the Government to indicate in its next report which provisions of the Trade Union (Recognition) Act have been amended to extend collective bargaining rights to all unions in a bargaining unit even if none of them covers 50 per cent of the employees in this unit.

3. *Article 4*. The Committee had noted previously that section 10 of the Counter-Inflation (Remuneration) Act allowed for the restriction or regulation, by order of the

Prices and Incomes Board, of remuneration of any kind, and stipulated that any agreement or arrangement which did not respect these limitations would be illegal and deemed to be an offence. The Committee had considered, however, that the powers vested under the Act in the Prices and Incomes Board did not meet the criteria for acceptable limitations on voluntary collective bargaining. The Committee would therefore ask the Government to keep it informed of any application in practice of section 10 of the Act.

[The Government is asked to report in detail in 1996.]

Finland (ratification: 1951)

The Committee notes the information supplied by the Government in its report, as well as the observations of the Confederation of Unions for Academic Professionals in Finland (AKAVA) and the Central Organization of Finnish Trade Unions (SAK) transmitted by the Government in its report.

The Committee notes the Government's statement that there have been two recent legislative amendments, namely the Act on the Amendment of the Constitution of Finland (969/95) and the Act on the Amendment of the Penal Code (578/95). The Committee notes that the new article 10(a) of the Constitution guarantees freedom of association, including the right to organize, to everyone. The Committee further notes with interest that section 3, Chapter 47, of the Penal Code as amended, permits an employer or his representative to be punished by a fine or six months' imprisonment for discrimination linked to trade union activities at the time of recruitment or during the employment relationship. Section 4, Chapter 47, protects workers' representatives against anti-union discrimination. Finally, section 5, paragraph 1, imposes fines on employers who prevent employees from exercising their right to join, belong to and be active in a trade union organization, or from appointing for the workplace a shop steward, labour protection delegate or personnel representative at the corporate group level.

In its statement, AKAVA points out that in the municipal sector it has been possible since January 1993 to make local, binding agreements deviating from the nationwide collective agreements. In practice, this has resulted in arrangements not in conformity with the Convention, e.g. notices and lay-offs, for those not covered by the agreement.

The SAK has, in its statement, drawn attention to the provision on eligibility, included in the new section 35 of the Municipality Act. They indicate that this provision restricts the rights to political involvement for persons participating in trade union activities. As a consequence of paragraph 2 of the provision, the chairman of the trade union board or a corresponding organ representing the municipal personnel is not eligible for being a member of the municipal executive board; nor can a chief shop steward or a shop steward involved in negotiation be appointed a member of the municipal executive board. The SAK deems this manner of proceeding to be contrary to the ILO Convention.

The Committee would request the Government to provide a copy of the Municipality Act as amended as well as its comments on the above statements in its next report.

Gabon (ratification: 1960)

The Committee notes the Government's report.

With reference to its previous comments, the Committee notes with satisfaction the adoption of the new Labour Code (Act No. 3/94 of 21 November 1994), the provisions of which guarantee workers protection against acts of anti-union discrimination at the time of recruitment and during employment (sections 5, 10 and 74 of the Code), and guarantee organizations of workers and employers protection against acts of interference in accordance with *Articles 1 and 2 of the Convention,* enforceable by measures of compensation (damages and interest) and penal sanctions (section 16).

Germany (ratification: 1956)

The Committee notes the Government's report. The Committee also notes the communication from the German Union of Salaried Employees (DGB) and the Teachers' Union (GEW) making a number of observations concerning the right to collective bargaining of teachers. The Committee proposes to examine these observations once the Committee on Freedom of Association has examined a complaint made against the Government of Germany on the same matter (Case No. 1820).

Ghana (ratification: 1959)

The Committee notes the information supplied by the Government in its report.

With reference to the Ghana Trades Union Congress's (TUC) observations on the redundancies which took place at the Ghana Cocoa Board under the terms of the Ghana Cocoa Board (Re-organization and Indemnity) Law, 1985 Provisional National Defence Council (PNDC) Law 125, the Committee notes the Government's statement that action has been initiated to repeal the law in question. This process, however, entails submission of a cabinet memorandum and the eventual submission of a draft bill to Parliament which has the responsibility for repeal of legislation.

The Committee would request the Government to provide it with the text of the repealing legislation once the process described above has been completed.

Greece (ratification: 1962)

Article 4 of the Convention (intervention of the authorities in freedom of collective bargaining in the public sector). With reference to its previous comments, the Committee notes with satisfaction the information provided by the Government in its report to the effect that Act No. 2123 of 14 April 1993 suspending the implementation of the national general collective agreement for workers in the public sector in the broad sense of the term, and workers in public utility enterprises and local administrative organizations, applied only to 1993. Since then, on 21 March 1994, a national general collective agreement has been concluded, in agreement with the social partners, for the period covering 1994 and 1995. Workers employed by the State, by public enterprises and under private employment contracts by local organizations are specifically covered by the provisions of the general collective convention.

Haiti (ratification: 1957)

The Committee notes with regret that for the third year in succession the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In its previous observation, the Committee asked the Government to report on the progress of (1) the revision of section 34 of the Decree of 4 November 1983, which confers on the Service of Social Organizations the power to intervene in the preparation of collective agreements, and (2) the adoption of specific provisions prescribing protective measures against anti-union discrimination at the time of recruitment and reinstatement of workers dismissed on grounds of legitimate trade union activities.
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> The Committee notes that, in its previous reports, the Government indicated that the committee in charge of reforming the Labour Code was engaged in a comprehensive

> examination of the Decrees being drafted to amend section 34 of the Decree of 4 November 1983 and the Decrees concerning protective measures against anti-union discrimination.
>
> The Committee would ask the Government to provide information in its next report on the measures taken by the above committee to bring the legislation into full conformity with the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Iceland (ratification: 1952)

The Committee notes the Government's report. It also notes the conclusions of the Committee on Freedom of Association in Case No. 1768 [299th Report of the Committee, approved by the Governing Body at its 263rd Session (June 1995)].

1. The Committee refers to its previous comments on the need for the Government to refrain from intervening in agreements that have been freely concluded by the social partners since this impairs the rights of workers and employers to freely negotiate terms and conditions of employment. The Committee notes with interest the Government's statement that acting partly on the Committee's suggestion, the Minister of Social Affairs appointed a Working Party on 4 October 1994 to examine the rules governing industrial relations in the labour market as well as in Iceland's neighbouring countries, and to submit a report on its conclusions. If these revealed a need for changes in Icelandic legislation in this area, the party was to submit proposals for amendments. The Government adds that the Working Party consists of seven representatives. Two are from the Icelandic Federation of Labour, one from the Federation of State and Municipal Employees, one represents the Minister of Finance, one represents the Association of Cooperative Employers and one the Confederation of Icelandic Employers. The party is chaired by the representative of the Minister of Social Affairs. The Ministry of Social Affairs requested technical assistance of the ILO regarding the matters to be dealt with by the Working Party.

The Committee would request the Government to keep it informed of the conclusions adopted by this Working Party, including proposals, if any, for amendments to the rules governing industrial relations.

2. The Committee further notes that with respect to the 1995 wages and terms agreements, the employers and trade unions had decided to enter into tripartite agreements involving the Government, as had been done before. Agreements, which would be valid for two years, were concluded on 21 February 1995 between the Confederation of Icelandic Employers and the Association of Cooperative Employers, on the one hand, and the main national associations within the Icelandic Federation of Labour on the other. The two main aims of these agreements are to change the wage distribution to the advantage of the lower paid, while keeping the overall wage increases within the framework of the increases in Iceland's neighbouring countries. The average wage increase resulting from these agreements is estimated as being 3.6 per cent during 1995 and 3.1 per cent in 1996. The Government points out that these agreements will remain in force until the end of 1996, but notice of termination may be given as from 31 December 1995 if price-level changes in Iceland differ substantially from those in its main competitive countries. If notice of termination is given, the wage increases provided for in 1996 will not be implemented.

In this respect, the Committee would remind the Government that in its view, it would be contrary to the principles of Convention No. 98 to allow the provisions of a collective agreement to be cancelled on the grounds that they run counter to the

Government's economic policy (see 1994 General Survey on freedom of association and collective bargaining, paragraph 265). The Committee therefore trusts that the wage increases provided for in 1996 under the 1995 wages and terms agreements will be implemented. It requests the Government to keep it informed of developments thereof in its next report.

Indonesia (ratification: 1957)

The Committee takes note of the Government's report, as well as of the oral information supplied to the Conference Committee in June 1995 and the discussion which took place there.

The Committee recalls that its comments concerned the following points:

- the need to strengthen the protection of workers, provided by section 3(a) of the Guidelines for the Establishment and Building of a Worker Union in a Company (Decree No. 438/MEN/1992), against acts of anti-union discrimination at the time of recruitment or during the employment relationship (including dismissal as well as other forms of prejudicial action such as transfer or demotion) accompanied by effective and dissuasive sanctions *(Article 1 of the Convention)*;
- the need to adopt specific legislative provisions to protect workers' organizations against acts of interference by employers or their organizations in their establishment, functioning or administration, in particular acts of interference which are designed to promote establishment of workers' organizations under the domination of employers' organizations, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations as Decree No. 438/MEN/1992 does not provide for specific regulations to that effect *(Article 2)*;
- the restriction on free collective bargaining still imposed by regulation No. 03/MEN/1993 on registered trade unions whereby only workers' organizations covering at least 100 units at plant level, 25 organizations at the district level and five organizations at the provincial level or 10,000 members throughout Indonesia may conclude collective agreements;
- the restrictions imposed on the right of public servants to bargain collectively.

The Committee notes that the Government only indicates in its report that the latest regulations enacted (Ministerial Regulation No. 03/MEN/93 on registered trade unions and Ministerial Regulation No. 01/MEN/1994 on trade unions at company level) are aimed at better ensuring in its legislation the protection of the provisions of the Convention. The Government adds that workers as well as employers are not fully aware of the purposes, functions and role endorsed by workers' organizations. In addition, the Committee regrets that the Government has not provided it with a copy of Act No. 8 of 1974 which regulates the terms and conditions of civil servants' employment.

The Committee, along with the Conference Committee, expresses the firm hope that the Government will provide it in its next report with information with regard to the measures actually taken in order to bring law and practice more in line with the provisions of the Convention, and in particular to strengthen the protection of workers against acts of anti-union discrimination accompanied by effective and dissuasive sanctions, to adopt specific provisions to protect workers' organizations against acts of interference by employers or their organizations and to eliminate the restrictions imposed on free collective bargaining. The Committee recalls that the Office remains at its disposal to provide technical assistance in this regard.

Iraq (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> It recalls that for several years it has been asking the Government to take specific measures to ensure that the Convention is applied, in view of:
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> — the lack of appropriate provisions to ensure the protection of workers against all acts of anti-union discrimination by employers at the time of taking up employment and during employment *(Article 1 of the Convention)*;
>
> — the lack of legislative provisions concerning the promotion of collective bargaining between employers or employers' organizations and workers' organizations with a view to the regulation of terms and conditions of employment *(Article 4)*;
>
> — the lack of provisions to guarantee that persons employed by the State, public enterprises and independent public institutions, who are not engaged in the administration of the State (such as teachers) and workers in the socialized sector have the right to be protected against all acts of anti-union discrimination and the right to negotiate their conditions of employment collectively *(Articles 1, 4 and 6)*.
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> *Articles 1 and 4.* The Government indicates that appropriate measures have been taken to amend the Labour Code (No. 71 of 1987) in order to bring it into line with the provisions of Article 1 of the Convention and that a new chapter entitled "Collective labour contracts" has been introduced into the Code. The Government adds that it will provide copies of the amendments as soon as the legislative procedures have been completed.
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> The Committee recalls that Act No. 71 of 1987 to issue the Labour Code and Act No. 52 of 1987 respecting trade union organizations contain no provisions to ensure the application of the Convention. The Committee is therefore bound once again to urge the Government to take specific measures at the earliest possible date to guarantee the protection of workers against all acts of anti-union discrimination, enforceable by sufficiently effective and dissuasive sanctions, and to encourage and promote the full development and utilization of machinery for voluntary negotiation of collective agreements in the private, mixed and cooperative sectors. It asks the Government to supply copies of the new provisions to which it refers so that the Committee may ascertain whether they are consistent with the requirements of the Convention.
>
> *Articles 1, 4 and 6.* The Government indicates that persons employed by the State or by public enterprises and independent public institutions, other than those engaged in the administration of the State (such as teachers) and workers in the socialized sector have the right to be protected against all acts of anti-union discrimination and to negotiate their terms and conditions of employment collectively, in accordance with the laws and regulations which apply in enterprises and establishments where such workers are employed.
>
> The Committee recalls that Act No. 150 of 1987 respecting public servants does not contain specific provisions guaranteeing that public employees enjoy protection against anti-union discrimination and granting them the right to negotiate their terms and conditions of employment collectively. It therefore asks the Government to provide with its next report copies of all the laws and regulations to which it refers, together with information on how negotiations are conducted in practice in the above-mentioned establishments (number of agreements concluded, number of workers covered, etc., if any).

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Jamaica (ratification: 1962)

The Committee takes notes of the information contained in the Government's report and recalls that its previous comments concerned the following points:

- the broad powers of the Minister to cause a ballot to be taken to choose the bargaining agent (section 5(1) of the Labour Relations and Industrial Disputes Act, 1975 (No. 14) and sections 3(1) and 3(2) of the regulations issued thereunder), without the right of appeal;
- the denial of the right to negotiate collectively in the case of the workers in a bargaining unit when these workers do not amount to more than 40 per cent of the unit or when, if the former condition is satisfied, a single union that is engaged in the procedure of obtaining recognition does not obtain 50 per cent of the votes of the workers in a ballot that the Minister has caused to be taken (section 5(5) of Act No. 14 of 1975, and section 3(1)(d) of the regulations issued thereunder).

For several years, the Committee has been requesting the Government to take measures to amend the provisions concerning the procedure for designating a union as bargaining agent so as to eliminate the discretionary powers of the Minister and to enable the workers of a bargaining unit to bargain collectively, even when the conditions relating to the numbers in a trade union and the votes cast in a ballot are not satisfied.

In line with its previous reports, the Government indicates that the actual system of designation of bargaining agent and of collective bargaining receive the full support of the social partners and that no reason would justify the modification of the legislation in this regard.

While noting these statements, the Committee recalls that the Committee on Freedom of Association has examined a complaint from the workers' organizations, to which the right to organize a ballot to show that their union was qualified to bargain with their employer had been refused by the Minister, leaving the workers concerned without any right of appeal to renew their application for the organization of a ballot. The grounds then invoked by the Government were that they represented fewer than 40 per cent of the workers in the undertaking [see Case No. 1158 examined by the Committee on Freedom of Association in its 226th Report, paras. 303 to 323, and its 230th Report, paras. 85 to 102].

Under these circumstances, the Committee reiterates that where conditions concerning the number of members of a trade union or the balloting of workers in a bargaining unit, in the event of a vote, are such that the workers of the unit concerned may be deprived of the right to collective bargaining, when there exists one or more legally constituted unions, the legislation should recognize the right of this or these unions to bargain at least on behalf of their own members. Moreover, the Committee recalls that, if under a system of nominating an exclusive bargaining agent, no union can be designated as representing the required percentage, collective bargaining rights should be granted to the most representative union in the unit.

The Committee urges the Government to indicate the measures that have been taken or are envisaged to bring its legislation into conformity with the Convention (i) to eliminate the discretionary power of the Minister and to guarantee the objectivity of the recognition procedure, and (2) to ensure that the union representing the largest number of workers, even if these do not amount to 40 per cent of the workers in the bargaining unit or the majority of votes in a ballot, is granted collective bargaining rights, concerning terms and conditions of employment, at least on behalf of its own members.

Japan (ratification: 1953)

The Committee notes the information provided by the Government in its latest report.

Promotion of collective bargaining

1. *Negotiation rights of public employees.* In its previous comments, the Committee recalled that the capacity of public employees who were not engaged in the administration of the State to participate in the process of the determination of their wages was substantially limited. It requested the Government to indicate the measures which could be envisaged to encourage and promote the full development and utilization of machinery for voluntary negotiation for such employees.

In its latest report, the Government reiterates its previous statements concerning the steps taken by the National Personnel Authority and the Personnel Commission to hear the views of the employees' organizations before making its recommendations. It also adds that meetings are often held between the Government and workers' organizations prior to the Government's submitting the bill, based upon the recommendations of the National Personnel Authority, to amend the Law concerning Compensation of Employees in Regular Service.

As it appears from the information provided in the Government's report that no measures have been taken to encourage voluntary negotiation with respect to public employees who are not engaged in the administration of the State, the Committee would once again ask the Government to consider the measures which could be taken or contemplated in this regard and to indicate in its next report any progress made in promoting collective bargaining for these workers.

2. *Exclusion of certain matters from negotiation in state enterprises.* Referring to the Japanese Trade Union Confederation's (RENGO) previous comments, the Committee requested the Government to provide precise information on the matters pertaining to management and operations which are excluded from negotiation or consultation. In its latest report, the Government states that, under section 8 of the National Enterprise Labour Relations Law, all matters relating to working conditions shall be subjects for collective bargaining, including those relating to management and operations and, in practice, each national enterprise has made consultations with their employees as necessary.

The Committee notes, however, that section 8 reads as follows: "... the following matters relating to employees shall be subject to collective bargaining and may be provided for in a collective agreement; provided, however, that matters pertaining to the management and operation of the national enterprises shall be excluded from collective bargaining". It requests both the Government to provide specific information on the types of issues which might be thus excluded from collective bargaining and on the manner in which this proviso is applied in practice. The Committee would also ask RENGO to indicate the precise manner in which they consider this section violates *Article 4* of the Convention as concerns the voluntary negotiation *of terms and conditions of employment*.

Jordan (ratification: 1968)

The Committee notes the Government's report.

The Committee recalls that its previous comments concerned:

— the need to adopt specific provisions enforceable by sufficiently dissuasive sanctions to ensure the application of *Article 2 of the Convention* in order to ensure that workers' organizations enjoy adequate protection against any acts of interference by employers, and particularly against acts which are designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations;

— the need to extend the application of the Convention to domestic servants and agricultural workers (other than those working in a government organization, a technical equipment establishment or irrigation work, who are already covered by the Labour Code).

The Committee notes the Government's indication in its report that the draft Labour Code has been submitted to the legislative authority. The Lower House has adopted it with certain amendments and submitted it to the Upper House. The Government adds that the Ministry of Labour will endeavour to ensure that the guarantees provided by the Convention on these two points are inserted into the draft Code and that, if it cannot do so, it will call for the adoption of amendments to the Labour Code after it has been enacted.

The Committee requests the Government to indicate in its next report the measures that have been taken to bring its legislation into full conformity with the Convention.

Kenya (ratification: 1964)

The Committee notes the information supplied by the Government in its report.

Articles 4 and 6 of the Convention. With regard to the question of the need to allow the establishment of a trade union to cater for the civil service on all issues relating to collective bargaining on terms and conditions of employment of this category of public employees, the Committee notes the Government's indication in its report that it is still examining the report submitted by a tripartite committee appointed to inquire into the question of the opportuneness to allow the establishment of a trade union for public officials to negotiate wages and terms and conditions of employment.

The Committee expresses the firm hope that, aside from the inquiry carried out by the above tripartite committee, the Government will take the necessary measures to ensure that public employees (with the sole possible exception of those engaged in the administration of the State) benefit from the guarantees laid down in the Convention and are therefore able to negotiate collectively their terms and conditions of employment, which presupposes the recognition of their right to establish and join organizations of their own choosing.

The Committee urges the Government to take measures in this respect without delay in order to bring its legislation into full conformity with Articles 4 and 6 of the Convention, and to provide information in this regard in its next report.

Liberia (ratification: 1962)

The Committee notes with regret that for the fifth year in succession the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes that no measures have been taken to eliminate the discrepancies between the national legislation and the Convention.
>
> In the circumstances, the Committee can only recall its comments of the last few years which concern the following points:
>
> 1. *Article 1 of the Convention.* The provisions of the national legislation are insufficient to guarantee workers adequate protection, accompanied by sufficiently effective and dissuasive sanctions, at the time of recruitment and during the employment relationship.

2. *Article 2.* The present provisions are not sufficient to ensure adequate protection of workers' organizations, accompanied by sufficiently effective and dissuasive sanctions, against acts of interference by employers and their organizations.

3. *Articles 4 and 6.* The possibility of collective bargaining is not offered to employees of state enterprises and other authorities, since these categories are excluded from the scope of the Labour Code, whereas under Article 6 of the Convention, only public servants engaged in the administration of the State are not covered by the Convention.

As the Committee has been repeating these comments for years, it again asks the Government to do everything in its power to take the necessary measures to ensure that full effect is given to the Convention in the very near future.

Libyan Arab Jamahiriya (ratification: 1962)

The Committee notes the Government's report.

The Committee recalls that for many years it has been pointing out a number of discrepancies between domestic legislation and the Convention, namely:

- section 34 of Act No. 107 of 1975 concerning trade unions, which provides protection against acts of discrimination for trade union activities during the employment relationship, but not at the time of the recruitment of a worker *(Article 1 of the Convention)*;
- sections 63, 64, 65 and 67 of the Labour Code, which require the clauses of collective agreements to be in conformity with the economic interest *(Article 4)*, whereas, in the Committee's opinion, rather than subjecting the validity of collective agreements to government approval, steps should be taken to persuade the parties to collective bargaining to have regard voluntarily to major economic and social policy considerations of general interest invoked by the Government;
- that public servants not engaged in the administration of the State, agricultural workers and seafarers do not have adequate protection against acts of anti-union discrimination or the right of collective bargaining.

The Committee had noted in its previous reports the assurance given by the Government that draft new labour legislation would apply ILO standards and observed that the National Commission that had been given the task of examining international labour Conventions had recommended that sections 4(d) and 34 of the Act of 1975, and sections 63, 64, 65 and 67 of the Labour Code be repealed or amended.

The Committee notes that the Government indicates in its last report only that a technical committee consisting of representatives of the Government, employers and workers considered that promulgation of Act No. 5 of 1991 on the Application of the Principles of the Great Green Book on human rights which provides that the citizens of the Jamahiriya shall be free to establish federations, unions, and occupational guilds to protect their occupational interests *(section 6)*, and Act No. 20 of 1991 on the strengthening of freedom which contains similar provisions *(sections 9 and 10)*, apply the Convention adequately.

Consequently, the Committee emphasizes once again the necessity of adopting measures to guarantee to all workers, be they nationals or foreigners, and not only to Libyan citizens, adequate protection against acts of anti-union discrimination at the time of recruitment, to secure the right to bargain collectively for public employees not engaged in the administration of the State, agricultural workers and seafarers, and to limit the scope of refusing official approval of collective agreements to questions of form or lack of conformity to the minimum standards of the Labour Code.

On the last point, the Committee draws the Government's attention to paragraphs 251 to 253 of its General Survey of 1994 on freedom of association and collective bargaining in which it indicates that in cases of economic difficulty the Government should prefer persuasion to constraint and that, in any event, the parties should be free to take their final decisions. In this study, the Committee highlighted certain suggestions on the question including the holding of prior consultations on what the scope of the concept of public interest should be, establishing joint bodies and drawing the attention of the parties to the economic policy objectives recognized as being in the general interest.

The Committee hopes that the Government will make every effort to take into account the suggestions made for amending its legislation and that it will supply information in its next report on any progress that has been achieved on these various points.

Malaysia (ratification: 1961)

1. The Committee notes the information supplied by the Government in its reports as well as the detailed discussion which took place at the Conference Committee in June 1994.

Further to its previous comments, the Committee notes the Government's statement that it has formally approved the proposed repeal of section 15 of the Industrial Relations Act, which limits the scope of collective agreements for companies granted "pioneer status", and that positive measures are being taken to repeal this provision.

The Committee requests the Government to send a copy of the repealing legislation as soon as it is adopted.

2. With reference to the Committee's previous comments on the scope of section 13(3) of the Industrial Relations Act, the Government once again indicates that the matters excluded by that provision from collective bargaining and known as internal management prerogatives (i.e. promotion, transfer, employment, termination, dismissal and reinstatement), are subject to negotiation, conciliation, arbitration and judicial decisions and can be raised at any time as and when they arise, as opposed to other matters covered in collective agreements that are negotiated at specific intervals. Moreover, in the Government's view, such matters cannot be predetermined in a collective agreement, as a predetermined agreement on such matters would ultimately affect the rights of management to manage. In addition, the Government emphasizes that the internal management prerogatives do not grant unfettered rights to employers, as demonstrated by numerous decisions of the Malaysian Courts as follows: (i) an employer can refuse to promote a worker only for proper cause and the trade union that represents the worker is free under the law to raise questions as to what is and what is not proper cause; (ii) the employers' prerogative of transfer is not unlimited. The Courts had ruled that there should be no unreasonableness or want of mala fide on the part of the employer; (iii) termination by way of retrenchment could not be carried out arbitrarily. The principle of "last in, first out" had to be applied; (iv) unjust dismissal could entitle the worker to reinstatement; (v) to provide that matters such as allocation of duties be covered by collective agreement, would be tantamount to asserting that it is not the management which is responsible for managing the enterprise, which is contrary to the commonly accepted practice worldwide. The Committee notes with interest that there is a degree of judicial protection as regards these internal management prerogatives which also appear to be subject to some level of bargaining in practice. The Committee therefore requests the Government to take the necessary steps to ensure that its

legislation no longer excludes internal management prerogatives from collective bargaining, in conformity with the Convention as well as with national practice and judicial precedents.

3. In relation to the Committee's comments on certain restrictions on the right to bargain collectively for public servants other than those engaged in the administration of the State (section 52 of the Industrial Relations Act), the Government indicates that the Congress of Unions of Employees in the Public and Civil Services (CUEPACS), the officers of the Joint Councils and the Public Services Department meet on a regular basis to discuss issues affecting employees in the public service. Through these discussions, the public sector unions do contribute to the deliberations on remunerations, terms and conditions of employment and the resolution of anomalies arising therefrom. For instance, in the current claims for salary adjustments, CUEPACS has had meetings with the Prime Minister, and through these meetings, some understanding has been arrived at. The Government emphasizes that the National Joint Councils provide a sufficient avenue for discussion and negotiation on salary and terms and conditions of employment of public servants and that CUEPACS as a national centre for public servants, plays an important and responsible role in protecting the interests of public servants, including salary negotiation.

The Committee takes note of this information and would request the Government to provide information on how collective bargaining is encouraged and promoted in practice between public employers and public servants other than those engaged in the administration of the State, for example, the number of collective agreements concluded, the different categories and numbers of employees covered, the number of public sector unions acting as bargaining agents, etc.

Mauritius (ratification: 1969)

The Committee notes the Government's report and the observations made by the Mauritius Employers' Federation denying the existence of problems in the country related to the application of the Convention.

Article 2 of the Convention. With reference to its previous comments on the need to include in the national legislation an explicit provision protecting workers' organizations against any act of interference by employers, the Committee noted in its previous report that the Government was preparing a Trade Union and Labour Relations Bill which contained provisions to this effect. In this respect, the Committee notes the information supplied by the Government in its report that consultations are still being held with employers' and workers' organizations to reach consensus on the provisions of the Bill.

The Committee recalls that it has been requesting the Government for many years to take the necessary measures to bring its legislation into conformity with the Convention and expresses the firm hope that measures will be taken, either by means of the above Bill or any other means, to adopt specific legal provisions in the near future to guarantee effective protection against acts of interference by employers and their organizations in the activities of workers' organizations, accompanied by effective and sufficiently dissuasive sanctions. The Committee requests the Government to provide information in its next report on any measure adopted in this respect.

Morocco (ratification: 1957)

The Committee notes the Government's report and the information provided by a representative of the Government to the Conference Committee in June 1994 and the following debate.

The Committee recalls that its previous comments concerned the following points:

- the need to strengthen the legislative provisions contained in Dahir No. 1-58-145 of 29 November 1960 with a view to guaranteeing in law and in practice an adequate protection to workers against acts of anti-union discrimination, both at the time of recruitment as well as in the course of the employment relationship (including all measures which might prejudice workers, such as transfers, downgrading, involuntary retirement) supported by effective sanctions of a sufficiently dissuasive nature *(Article 1)*;
- the need to adopt specific legislative measures to protect organizations of workers against acts of interference by employers or by organizations of employers, in particular acts which are designed to promote the establishment of workers' organizations under the domination of an employer, or to support workers' organizations by financial or other reasons *(Article 2)*;
- the need to adopt appropriate measures to encourage and promote the development and utilization of machinery for voluntary negotiation of collective agreements between employers' and workers' organizations with a view to the regulation of conditions of employment.

The Committee notes that the Conference Committee, in June 1994, observed with concern that, despite the assurances given on a number of occasions by the Government to adopt a draft Labour Code in the near future and to bring the legislation into conformity with the Convention, no tangible progress has been noted. It also noted that, in the course of the examination of numerous complaints concerning acts of anti-union discrimination, the Committee on Freedom of Association had recommended the Government to ensure effective protection against acts of anti-union discrimination by means of specific provisions. It also noted that this question as well as the protection against acts of interference and the poor functioning of the machinery of collective bargaining for the purpose of determining conditions of employment has been the subject of comments for several years. Recalling the importance it attached to the implementation of this fundamental Convention, it called on the Government to report on real progress which has been made in law and in practice. It also recalled that the International Labour Office was at its disposal to provide any technical assistance that might be necessary in the form of direct contracts or any other form.

The Committee also notes that the Government indicates in its report that the Consultative Council on Social Dialogue has been established in 1994 and that the draft Labour Code as well as the draft Law on the Settlement of Collective Disputes are in the process of adoption. The Committee can only, once again, express the firm hope that the legislative texts which are in the process of adoption will, in the near future, ensure that workers' and employers' organizations enjoy adequate protection against acts of anti-union discrimination and of interference and promote free and voluntary collective bargaining without interference by public authorities.

Nicaragua (ratification: 1967)

The Committee notes the Government's report and recalls that in its previous comment it asked it to indicate the measures adopted, both in law and in practice, to promote collective bargaining and to refrain from any intervention which could restrict the freedom to conclude collective agreements.

On this matter, the Committee takes due note that in its report the Government has affirmed that the Ministry of Labour does not intervene in the negotiation of collective agreements, restricting its function to that of depository of the copy which the contracting parties lodge with the Ministry, and to ensuring that the clauses contained in the agreements do not violate workers' rights as laid down in current legislation. The Government adds that section 242 of the new Labour Code stipulates non-interference by the Ministry of Labour in the negotiation of collective agreements, and that its role is merely to be the custodian of the agreement between the parties. According to the Government, the Code has now been approved by the National Assembly but has not entered into force because some of its sections were vetoed by the Executive Authorities, but none of these relates to the collective agreement and new section 242 remains as cited.

The Committee expresses the firm hope that the amendments contained in the new Labour Code which give effect to Article 4 of the Convention will enter into force in the near future. The Committee requests the Government to send it the full text of the new Labour Code as soon as possible.

Pakistan (ratification: 1952)

The Committee notes the information in the Government's report as well as the communication from the Pakistan National Federation of Trade Unions (PNFTU) dated 29 August 1995.

The Committee's previous observations referred to inconsistencies between the national legislation and the following Articles of the Convention:

- *Article 4 of the Convention.* Limitations on free collective bargaining in the banking and financial sector (sections 38A to 38I of the Industrial Relations Ordinance, 1969); and
- denial of the rights guaranteed by *Articles 1, 2 and 4* for workers in export processing zones (section 25 of the Export Processing Zones Authority Ordinance, 1980).

1. As in its previous reports, it is stated in the Government's report that the procedure used by the Wage Commission for banks and financial institutions is intended to provide workers with the opportunity to bargain with the Commission without any hesitations instead of bargaining directly with the employer. The Government adds that workers allowed to bargain freely with their employers not only form their unions and put one impediment after the other in the shape of nagging demands on a recurring basis, but also pollute discipline and the working environment in the branches of activity as they have too many office bearers at an overwhelming majority in the operational units. According to the Government, this is aggravated by the fact that officers can also form associations under the law and that the branch managers and officers at grade-1 level are members with their loyalties divided more towards the interests of their associations. Thus, discipline amongst the staff and the overall efficiency is deteriorating.

The Government states that the Wage Commission pronounces its awards after having considered all the relevant facts and circumstances of socio-economic importance and giving patient hearings to the representatives of the concerned parties in order to achieve a consensus on all the issues raised by either party and the matters otherwise considered by the Commission. The Wage Commission issued its 7th Wage Award last year, to be effective from 1 January 1993, and has also given its views on staff union/management relations.

The Committee must once again recall that *Article 4* provides that measures appropriate to national conditions shall be taken *to encourage and promote* the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations. It has indicated that, in the first instance, voluntary collective bargaining should be encouraged *between the parties*. Any external administrative structure established should be referred to only when both parties agree and its purpose should be that of *facilitating* the conclusion of a collective agreement. The Committee, therefore, must once again request the Government to reconsider the question of collective bargaining in the banking and financial sector so as to ensure that both parties agree to any settlement in respect of the terms and conditions of employment. It expresses the firm hope that the Government will be able to indicate the progress made in this regard in its next report and would ask the Government to supply a copy of the award of the Wage Commission which is actually in force.

2. As regards the denial of freedom of association and the right to bargain collectively for workers in export processing zones (EPZs), the Committee notes the comments made by the Government in its report under Convention No. 87. The Committee had noted in its previous comments that the report of the tripartite Task Force on Labour had recommended that labour laws apply throughout the entire country without discrimination. In its latest report, the Government has indicated that the Task Force report is under active consideration by the Cabinet Committee. Given that the Task Force report was drafted in July 1994, the Committee expresses the firm hope that action will be taken on its recommendations *in the very near future* and that it will include measures to ensure that the provisions of this Convention are applied to EPZs. It requests the Government to indicate the progress made in this regard in its next report.

3. The Committee notes that the communication of the PNFTU refers to a Supreme Court decision dated 11 August 1994 which severely restricts the right to judicial recourse of dismissed workers under section 25A of the Industrial Relations Ordinance (IRO), 1969. In this judgement, the Supreme Court determines that "a person who has been dismissed, discharged, retrenched, laid off or otherwise removed from employment is not a worker (as defined by the IRO) unless his dismissal, discharge, etc., had connection with or was in consequence of an industrial dispute or whose dismissal, discharge, etc., had led to such a dispute". The Supreme Court went on to hold that such persons were therefore not entitled to the remedy provided in section 25A of the IRO.

The Committee would recall to the Government that, in freely ratifying this Convention, it has undertaken to ensure the protection of workers against acts of anti-union discrimination calculated to cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities, in accordance with *Article 1(2)(b)*. The above court decision would appear to have the effect of blocking any legal recourse to dismissed workers, including those who have been dismissed for their trade union membership or activities. The Committee requests the Government to take the necessary measures to amend the IRO in order to ensure that dismissed workers have the right to appeal to legal proceedings so as to protect them from anti-union dismissals.

Panama (ratification: 1966)

The Committee notes from the Government's report the adoption of Act No. 9 establishing and issuing regulations governing administrative careers, of 20 June 1994, and the new Act No. 44 issuing regulations to regularize and modernize industrial relations, published on 12 August 1995.

In relation to its previous comment, relating to the need to grant the right to bargain collectively to public servants not engaged in the administration of the State, the Committee notes with interest that the new Act No. 9, in section 135(13), grants public servants the right to engage in collective bargaining concerning disputes and those aspects of the conditions of service of public servants with respect to which collective bargaining is not explicitly prohibited by law.

In this context, the Committee notes that, according to the Government's report, the new Government has established a National Commission in the public sector with a view to preparing regulations under the Act respecting administrative careers to ensure that it responds to the interests of public servants and is in conformity with the provisions of the Convention.

Furthermore, the Committee takes due note that, according to the Government's statement, new Act No. 44 strengthens collective agreements since, in accordance with section 53, their scope is extended and, in accordance with section 54, the parties are accorded freedom to establish the period covered by collective agreements and to amend them by common agreement while they are in force.

The Committee requests the Government to keep it informed of the progress made in practice in ensuring that in law and practice the category of public servants who are not engaged in the administration of the State are granted the right to bargain collectively, in accordance with *Articles 4 and 6 of the Convention*, and to supply any agreement concluded in this respect.

Papua New Guinea (ratification: 1976)

The Committee notes with regret that for the third year in succession the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee had asked the Government to amend the national legislation which gives the authorities discretionary power to cancel arbitration awards or declare wages agreements void when they are contrary to government policy or national interest (section 42 of the Industrial Relations Act and section 52 of the Public Service Conciliation and Arbitration Act), contrary to *Article 4 of the Convention*.
>
> The Committee noted that the Government stated that due to the acute shortage of manpower in the relevant department the drafting of the amendments had not yet been attended to. Noting that the Government required the full-time input of an official to look into further amendments as well, the Committee considers that this is a case where the technical assistance of the ILO should be drawn on. It thus hopes that the Government will take up this offer as soon as possible and will be able to indicate in its next report that the necessary amendments have been tabled and adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Paraguay (ratification: 1966)

The Committee notes that the Government's report contains no specific information on the questions raised and recalls that its previous comments referred to:

- the lack of provisions protecting workers who are not trade union leaders against dismissal for trade union activities;
- the inadequacy of penalties amounting to a fine of from 10 to 30 days' wages in the event of the non-observance of the provisions of the Labour Code including in case of anti-union discrimination or interference where there are no other special penalties (section 385 of the new Labour Code), as well as the penalty for 30 days' minimum wage for violations by the employer of the protection set out in section 393 of the same Code against the dismissal of trade union leaders;
- the prohibition on the establishment of associations of employers (sections 10 and 12 of the "Memoranda of agreement on labour relations and social security in the hydro-power plant 'Yacyreta'".

In regard to the first two points, the Committee stresses that *Article 1 of the Convention* guarantees all workers adequate protection against acts of anti-union discrimination both at the time of recruitment and during employment and covers all discriminatory measures (dismissal, transfer, downgrading or other prejudicial acts) and that the effectiveness of the legal provisions depends to a great extent on the way in which they are applied in practice so as to ensure that they are sufficiently dissuasive.

The Committee once again requests the Government to take measures to bring its legislation into conformity with the requirements of the Convention regarding the two points mentioned above and to inform it of any developments in the matter.

With regard to the prohibition on the establishment of employers' associations (sections 10 and 12 of the "Memoranda of agreement on labour relations and social security in the hydro-power plant 'Yacyreta'"), the Committee requests the Government to inform it whether these sections have been repealed since they would allow serious interference by the public authorities with free collective bargaining as provided in *Article 4 of the Convention*.

Peru (ratification: 1960)

The Committee notes the Government's report, the observations made by the Coordinator of Trade Union Federations of Peru and the Federation of Workers in the Lighting and Power Industry of Peru in relation to the General Labour Bill of 1995, as well as the interim conclusions adopted by the Committee on Freedom of Association in Case No. 1731, approved by the Governing Body at its 259th Session in March 1994 (see 292nd Report of the Committee, paras. 774 to 786).

The Committee recalls that its previous comments concerned:

- the absence of effective and sufficiently dissuasive sanctions to guarantee the protection of workers against acts of anti-union discrimination and to protect workers' organizations against acts of interference by employers *(Articles 1 and 2 of the Convention)*;
- the obstacles to voluntary negotiation resulting from the requirement of a majority, not only of the number of workers, but also of enterprises, in order to conclude a collective agreement for a branch of activity or occupation (section 46 of the Industrial Relations Act of 1992) *(Article 4 of the Convention)*;

- the obligation to renegotiate collective agreements which are currently in force (fourth transitional and final section, and sections 43(d) of the Act and 30 of its regulations).

With reference to the first point concerning the absence of sanctions, the Committee notes the general comments made by the Government concerning the existence of provisions in the Constitution and labour legislation providing protection against acts of anti-union discrimination and interference. Nevertheless, the Committee notes that these provisions are not enforced by effective and sufficiently dissuasive sanctions and procedures to guarantee their application in practice. The Committee once again urges the Government to take the necessary measures as soon as possible to guarantee the full application of the Convention, since the General Labour Bill of 1995 does not contain provisions in this respect.

With regard to the second question concerning the requirement of a majority to conclude a collective agreement for a branch of activity or occupation, the Committee notes the Government's comments to the effect that section 46 of Act No. 25593 establishes the possibility of negotiating at different levels; nevertheless, in order to negotiate at the level of the branch or occupation, it is necessary for the majority of the workers concerned to express their will in a democratic manner.

In this respect, the Committee joins with the Committee on Freedom of Association in emphasizing that, according to the principle of free and voluntary collective bargaining embodied in *Article 4 of the Convention, the determination of the bargaining level is essentially a matter to be left to the discretion of the parties* and that, consequently, the level of negotiation should not be imposed by law (see 259th Report of the Committee on Freedom of Association, Case No. 1450 (Peru), para. 216). The Committee considers that the requirement of a majority, not only of the number of workers, but also of enterprises, in order to conclude a collective agreement for a branch of activity or occupation set out in section 46 of the Industrial Relations Act of 1992 could give rise to problems in the application of the Convention.

The Committee notes with interest that the General Labour Bill of 1995 would eliminate the provisions respecting the obligation to renegotiate collective agreements which are currently in force, as set out in the fourth transitional and final section, and sections 43(d) of the Act and 30 of its regulations. Nevertheless, the Committee notes that the Bill has not taken into account the Committee's comments concerning the requirement of a majority, not only of the number of workers, but also of enterprises, in order to conclude a collective agreement for a branch of activity or occupation (section 46 of the Industrial Relations Act of 1992), by retaining the same requirement in section 39 of the Bill.

The Committee also notes that, by virtue of sections 1 and 2 of Legislative Decree No. 25921 of 3 December 1992, the employer is empowered to have recourse to the Ministry of Labour without the agreement of the workers for the purposes of modifying, suspending or substituting conditions of work previously agreed upon. In this respect, the Committee of Experts joins with the Committee on Freedom of Association in considering that a legal provision which allows the employer to modify unilaterally the content of signed collective agreements, or to require that they be renegotiated, is contrary to the principles of collective bargaining (see 292nd Report, Case No. 1731, paras. 784 and 785 of the Case referred to above).

The Committee once again requests the Government, in consultation with the social partners, to take steps to amend the legislation so as to enable *organizations of workers* and of employers to exercise freely and *without impediment* the right to collective bargaining at all levels.

The Committee requests the Government to provide information in its next report on the measures adopted in this respect.

The Committee is addressing a direct request to the Government on other matters.

Romania (ratification: 1957)

The Committee notes the Government's report and the conclusions of the Committee on Freedom of Association in Case No. 1788, approved by the Governing Body at its 262nd Session in March-April 1995 concerning restrictions on collective bargaining by certain categories of railway workers and the need to ensure that draft legislation on collective bargaining and the resolution of collective disputes is designed fundamentally to promote the broader development and utilization of machinery for voluntary negotiation of collective agreements between employers and workers' organizations with a view to the regulation by this means of terms and conditions of employment. The Committee requests the Government to provide information in its next report on developments in the situation in this respect.

With regard to restrictions on the right of employers to collective bargaining under the terms of section 8(3) of Act No. 13 of 1991, which reserve the right to bargain collectively by chambers of commerce and industry, which are considered by Cartel Alfa not to be independent organizations truly representing employers, the Committee notes with interest the information provided by the Government to the effect that draft legislation on employers' organizations is currently being adopted and that section 1 of this legislation provides that employers' organizations are independent and apolitical. Section 6 of the above draft legislation defines employers' organizations as the representatives of employers for the negotiation and conclusion of collective labour agreements and other agreements with the authorities and workers' organizations. The Committee notes that section 8(3) of Act No. 13 of 1991 will be repealed as a result of the coming into force of the above draft text (section 20). The Committee requests the Government to provide a copy of the legislation as soon as it is adopted and to specify the minimum number of employers required to establish an organization.

The Committee is also addressing a direct request to the Government.

Saint Lucia (ratification: 1980)

The Committee notes with regret that for the fifth year in succession the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous direct request which read as follows:

> In its previous comments, the Committee recalled the importance of sufficiently effective and dissuasive measures to ensure the application in practice of basic legal standards prohibiting acts of anti-union discrimination. It recalls that section 3(2) of the Labour Regulations of 1960 (No. 15) provides that it is the duty of the Labour Commissioner to ensure that workers enjoy adequate protection against acts of anti-union discrimination in respect of their employment. The Government is requested to indicate, in its next report, the manner in which section 3(2) is applied in practice, including any statistics concerning the number of complaints of anti-union discrimination brought to the attention of the labour commissioner and whether any sanctions have been applied in such cases or compensation ordered for the worker who has suffered such acts of discrimination.

Sierra Leone (ratification: 1961)

The Committee notes the information supplied by the Government in its report.

As regards the application of *Articles 1 and 2 of the Convention*, the Committee had previously noted that the revision of the labour laws, prepared with ILO technical assistance, had already been submitted to tripartite meetings. The Committee notes the Government's statement that the comments of the tripartite body have been received and that the document has just been forwarded to the Law Officers' Department. The Committee asks the Government to keep it informed of any further progress made in the preparation of the final draft document and to provide a copy of the revised legislation as soon as it has been adopted.

With regard to the right to collective bargaining of teachers, the Government reiterates that teachers are now at liberty to conduct free and voluntary negotiation with their employers since they now have a Negotiating Council of their own.

In its previous observation however, the Committee had noted that Government Notice No. 325 of 18 November 1993 established the teaching service as an essential trade group under section 17(4) of the Regulation of Wages and Industrial Relations Act, 1971, which provided that, should such trade groups fail to reach agreement in negotiations, the Minister would refer the matter to compulsory arbitration in accordance with section 17(2) of the Act. The Committee had pointed out that such provisions did not encourage and promote the development and utilization of machinery for *voluntary* collective bargaining in the teaching sector. The Government indicates that there has been no cause to refer any matter for compulsory arbitration in the teaching sector.

The Committee takes note of this information with interest and would request the Government to provide information in its future reports on any collective agreements covering teachers that have been concluded.

Singapore (ratification: 1965)

The Committee notes the information supplied by the Government in its report.

The Committee recalls that its previous observations on inconsistencies between the national legislation and *Article 4 of the Convention* concerned the following points:

- limitations on the scope of matters open to collective bargaining (section 17 of the Industrial Relations Act) (IRA); and
- discretion of the Industrial Arbitration Court to refuse to register collective agreements concluded in newly established enterprises (section 25 of the Industrial Relations Act).

As concerns these two points, the Government indicates that it will continue to review the labour legislation, in consultation with the other two social partners, and take into consideration the Committee's previous comments thereon.

The Committee trusts that the Government will take appropriate steps to ensure that sections 17(2) and 25(2) of the IRA are amended so as to bring its legislation into conformity with *Article 4*. It requests the Government to keep it informed of any developments in this respect.

Sri Lanka (ratification: 1972)

The Committee notes with regret that the Government's report has not been received.

It has nevertheless taken note of the comments of several workers' organizations on the inadequate application of the Convention.

The Committee recalls that its previous comments related to:

- the necessity to strengthen or adopt legislative provisions in order to ensure full protection of workers against acts of anti-union discrimination and of workers' organizations against acts of interference by employers accompanied by effective and sufficiently dissuasive measures, in accordance with the requirements of *Articles 1 and 2 of the Convention*;
- the necessity to promote the development and use of procedures for voluntary negotiation of collective agreements between employers and/or employers' organizations and workers' organizations with a view to regulating conditions of employment by this means, in accordance with *Article 4*.

The Committee notes that the Ceylon Mercantile, Industrial and General Workers' Union (CMU) and the Lanka Jathika Estate Workers' Union (LJEWU) stress that the Convention is not applied in the free trade zones and in several other industrial establishments within the purview of the Greater Colombo Economic Commission (renamed the Board of Investments), as well as at the Lanka Jathika plantation. The Ceylon Workers' Congress (CWC) for its part regrets the lack of provisions applying *Articles 1 and 2* of the Convention and states that for ten years the Government has restricted itself to indicating that it envisages amending the legislation to bring it into conformity with the Convention. The CWC hopes that the necessary legislation will be adopted in the framework of the revision of the labour laws of Sri Lanka which is presently in process.

The Committee stresses firmly to the Government that measures should be adopted, in legislation and in practice, with a view to ensuring the application of the Convention which was ratified over 20 years ago and recalls that the ILO is available for any technical assistance in these fields; it requests the Government to supply in its next report detailed information on any progress made in this respect.

Sudan (ratification: 1957)

The Committee notes the information supplied by the Government in its report.

The Committee had requested the Government on previous occasions to take measures to amend its legislation in view of the numerous and serious incompatibilities of the Trade Union Act of 1992 with the Convention, particularly the lack of protection afforded to workers against acts of anti-union discrimination.

1. *Article 1 of the Convention.* The Committee's previous comments referred to the fact that while section 23 afforded trade union *officials* a certain degree of protection against acts of anti-union discrimination in respect of their employment, it was defective in that it did not apply to trade union *members* in general. Moreover, under the terms of this provision, an employer could carry out the prohibited acts with the agreement of the trade union federation or the Registrar General.

The Committee notes the Government's statement that section 24 of the Trade Union Act provides for such protection by stipulating that it is prohibited for an employer to tempt any of his workers, by assistance in cash or in kind or by any other means, to join or not to join a trade union. This section also prohibits all forms of interference by an employer in the activities or administration of a union for the sake of bringing it under his control.

The Committee observes, however, that the first part of section 24 only provides unionists with protection from pressures which may be exercised against them as a result of their union ***membership***, but not as a result of their union activities. Moreover, the second part of section 24 refers to protection against acts of ***interference*** and not ***anti-union discrimination***.

The Committee therefore is obliged to conclude that neither section 23 nor section 24 afford sufficient protection to unionists against acts of anti-union discrimination.

The Committee would therefore once again request the Government to take steps to ensure that: (i) section 23 of the Trade Union Act of 1992 is amended so that all trade unionists, and not just officials, are protected against acts of anti-union discrimination; and (ii) this protection is not weakened by allowing an employer to carry out such acts with the agreement of the Registrar or a union which is not independent.

2. *Article 3.* The Committee recalls that this provision stipulates that machinery appropriate to national conditions shall be established, where necessary, to ensure respect for the right to organize as defined in *Articles 1 and 2.* In this respect, the Committee notes that under section 41 of the Trade Union Act, a violation of any provision of this Act or of any regulations issued thereunder constitutes an offence punishable by six months' imprisonment or a fine or both.

3. *Article 4.* The Committee observes that section 11 of the Industrial Relations Act, 1976, establishes a procedure of compulsory negotiation for two weeks in the event of a labour dispute, which duration can be extended if both parties agree. The Committee further notes that failure to reach agreement after such negotiation results in section 14 of the same Act providing for compulsory conciliation for a maximum period of three weeks. In the event of failure to reach agreement during this period, section 16 stipulates that the Registrar General shall refer the dispute for arbitration but only if both parties agree. However, the Committee notes that section 16 also provides that the Minister may, if he deems it necessary, refer the dispute for arbitration even without the agreement of the parties.

In this respect, the Committee recalls that the Minister could have recourse to compulsory arbitration only in essential services in the strict sense of the term, namely those the interruption of which would endanger the life, personal safety or health of the whole or part of the population.

The Committee would therefore request the Government to take steps to ensure that section 16 of the Industrial Relations Act, 1976, is amended so that compulsory arbitration may be imposed only in the circumstances mentioned above.

Moreover, with reference to its earlier comments on section 32(2) of the Trade Union Act concerning disputes which arise before the Registrar General, the Committee notes the Government's statement that disputes arising under section 32(2) of the Trade Union Act of 1992 relate to disputes which may occur between unionists themselves for reasons related to activities inside a union or regarding union protection and immunity in union relations with employers; consequently, this provision does not govern labour relations disputes, which are regulated by the Industrial Relations Act. In addition, the Committee notes that the decisions of the Registrar General under section 32(2) are subject to appeal, first to the Court of Appeals, and then to the Supreme Court if necessary.

Swaziland (ratification: 1978)

The Committee notes the Government's report.

The Committee recalls that, in its previous comments, it had referred to the following points which derive from the 1980 Industrial Relations Act.

Article 2 of the Convention. The need to adopt a specific provision accompanied by sufficiently effective and dissuasive sanctions for the protection of workers' organizations against acts of interference by employers and their organizations.

Article 4. The need to restrict the occupational tribunals' power to refuse registration except on procedural grounds or because the clauses of the agreements are not consistent with the minimum standards of labour legislation, whereas at present the tribunal is able to refuse registration of collective agreements that are not consistent with government directives on wages and wage levels.

The Committee notes with interest that, according to the information in the Government's report, a draft Industrial Relations Act which takes into account the Committee's comments has been elaborated and submitted to the Parliament in 1995. This draft has already been approved by the National Assembly and is to be submitted to the Senate. In addition, the draft amendment to the Employment Act of 1995 has also been elaborated and is to be discussed before a tripartite commission prior to being submitted to the competent authority. The Government adds that it will transmit a copy of these two texts once they have been adopted.

The Committee trusts that these two texts will bring the legislation into full conformity with the requirements of the Convention. It requests the Government to furnish a copy of these two texts with its next report even if they have not yet been adopted so that it may examine their conformity with the Convention. If the texts have been adopted, the Committee requests the Government to transmit them in their final version.

Syrian Arab Republic (ratification: 1957)

The Committee notes the information supplied by the Government in its report.

To the request for clarification sent to the ILO by the Government concerning its comments on section 98 of the Syrian Labour Code of 1959 under the terms of which the Minister may refuse to approve a collective agreement or cancel any clause likely to harm the economic interests of the country, the Committee replied that only questions of form or of inconsistency with the minimum standards of labour law could justify such a system of approval. It suggested that the Government refer to its 1994 General Survey on freedom of association and collective bargaining which contains various proposals in that respect, including holding prior consultations on what the scope of the concept of public interest should be, establishing joint bodies and drawing the attention of the parties to the economic policy objectives recognized as being in the public interest (see in particular General Survey, op. cit., paragraphs 251-253).

The Committee notes with interest that the Government states in its last report that it is examining the question and conducting the necessary consultations with the various structures concerned for the amendment of section 98, and will keep the Committee informed of the results.

The Committee asks the Government to communicate in its next report information on any measure taken in this respect.

United Republic of Tanzania (ratification: 1962)

The Committee notes the information supplied by the Government in its report.

The Committee recalls that for several years it has been indicating to the Government that the provisions of sections 22(e)(i), (v), (vii) and (ix), 23(3)(c) and 39(7)(c) of the Permanent Labour Tribunal Act, No. 41 of 1967, as amended in 1990 and 1993, give the court the power to refuse to register a collective agreement if the Convention is not in conformity with the Government's economic policy. The Committee considers that these provisions are not compatible with the principles of *voluntary* negotiation of collective agreements between employers and employers' organizations on the one hand and workers' organizations on the other hand with a view to regulating conditions of employment by this means.

The Committee observes that in its last report the Government explains that registration of collective agreements is intended to give them compulsory force. It admits that registration has sometimes been refused but adds that *that has not prevented the parties from executing their agreement*. The Government states that registration is intended to ensure that the provisions of the agreement do not contradict the provisions of the Industrial Court Act or other legislation and that it so happens that parties to the refused agreement decide to amend it so as to ensure no contradiction in its execution. According to the Government, the Industrial Court's role is advisory. It emphasizes, however, that the parties may opt to execute an agreement without registering it and this has no consequences for the agreement.

The Committee notes with interest that, according to the Government, the parties may apply the agreement even though it has not been registered. It recalls, however, as a general rule, that the provisions requiring prior approval of a collective agreement for it to enter into force are only compatible with the Convention provided they merely stipulate that approval may be refused if the collective agreement has a procedural flaw or does not conform to the minimum standards laid down by general labour legislation. On the other hand, if legislation allows the authorities full discretion to deny approval or stipulates that approval must be based on criteria such as compatibility with the general or economic policy of the Government or official directives on wages and conditions of employment, it in fact makes the entry into force of the collective agreement subject to prior approval, which is a violation of the principle of autonomy of the parties.

The Committee requests the Government to indicate in its next report all the measures taken or envisaged to take into account the clarification mentioned above and to bring the legislation into conformity with the practice it affirms in its report. Furthermore, it also asks it to specify how many unregistered collective agreements have actually been applied between the parties during the period covered by the report.

Trinidad and Tobago (ratification: 1964)

The Committee takes note of the Government's report.

1. With regard to the need to amend provisions that afford a privileged position to registered associations, without providing objective and pre-established criteria for determining the most representative association (sections 24(3) of the Civil Service Act, 28 of the Fire Service Act and 26 of the Prison Service Act), the Government indicates in its report that the work of the tripartite committee which was appointed to review all the Service Acts and their relevant regulations is still continuing and that no Bill has yet

been promulgated. The Committee points out that the procedure for recognizing unions as exclusive bargaining agents should provide for specific safeguards and requests the Government to indicate in its next report the outcome of the work of the tripartite committee and to provide information on the measures taken in order to bring its legislation into conformity with the Convention (see paragraph 240 of the 1994 General Survey on freedom of association and collective bargaining).

2. With regard to the necessity to amend section 34 of the Industrial Relations Act, chap. 88:01, in order to allow a union whose members constitute the largest number of workers in a bargaining unit even if it is unable to reach a membership of 50 per cent of the workers in that bargaining unit, to negotiate collectively employment conditions, and to give to minority unions the right to pursue individual grievances at least on behalf of their members, the Committee notes from the information provided by the Government in its report that a tripartite committee was appointed to review the Industrial Relations Act and that its deliberations are still continuing. The Committee requests the Government to provide in its next report information on the outcome of the work of the tripartite committee and on measures taken to bring the legislation into conformity with the requirements of Article 4 of the Convention.

3. With regard to the need to establish an appropriate mechanism to deal with the grievances of the Central Bank's employees, the Committee notes from the Government's report that the Central Bank Act, chap. 79:02 has been amended by Act No. 23 of 1994 which entered into force on 1 December 1994. Section 20 of the Central Bank Act was amended so as to establish a mechanism of settlement of disputes between the Central Bank and its employees. The Committee understands that, pursuant to paragraphs (e) and (f) of the said section, the Minister of Labour has the power to refer disputes to a special tribunal whose decision is final. The Committee finds it difficult to reconcile such intervention with the principle of the voluntary nature of negotiation recognized by *Article 4* and is of the opinion that whatever mechanism of settlement of disputes is adopted, its objective should be to encourage free and voluntary collective bargaining, so it should incorporate the possibility of suspending compulsory arbitration if the parties want to resume negotiations. The Committee therefore requests the Government to consider taking the necessary measures to bring its legislation into conformity with the Convention and to keep it informed in its next report on the application in practice of such mechanism of settlement of disputes.

Turkey (ratification: 1952)

The Committee notes the information provided by the Government representative to the Conference Committee in June 1995 and the discussions of that Committee.

The Committee also notes the comments made by the Confederation of Turkish Trade Unions (TURK-IS) relating to the insufficiently dissuasive nature of sanctions against anti-union discrimination, the prohibition upon federations and confederations from participating in collective bargaining and the compulsory arbitration imposed under the terms of Act No. 3218 of 15 June 1985 for ten years in free trade zones. The Confederation of Progressive Trade Unions of Turkey (DISK) made comments on the denial of the right to bargain collectively as a result of the over-stringent requirements set out in law as regards the criteria of representativity and also on the compulsory arbitration that has been imposed since 1985 in free trade zones. The Turkish Confederation of Employer Associations (TISK) considers, however, that the Convention is properly applied in Turkey.

The Committee recalls that for several years its comments have related to the requirements concerning the membership of trade unions, under which they are only authorized to negotiate collectively if they represent at least ten per cent of the workers in a branch and over half of the workers in an establishment; the denial of the right of public servants to bargain collectively other than those engaged in the administration of the State; and the imposition of compulsory arbitration in collective disputes which do not prejudice essential services.

1. With regard to the minimum requirement for membership of a trade union to be able to negotiate collectively, the Committee notes the information reiterated by a Government representative to the Conference Committee to the effect the abolition of the requirement that ten per cent of the workers in a branch must be members is still under examination, despite the objections raised by the organizations of employers and workers (TISK and TURK-IS).

However, the Committee notes that DISK in its comments criticizes these provisions, which have the effect of denying many workers the right to negotiate their terms and conditions of employment with employers. The Committee therefore reminds the Government that measures have to be taken to reduce the numerical requirements set out in the legislation and thereby allow the fuller development and utilization of machinery for the voluntary bargaining of collective agreements, in accordance with *Article 4 of the Convention*.

2. With regard to the denial of the collective bargaining rights of public servants not engaged in the administration of the State, the Committee notes the constitutional amendments published in the *Official Gazette* on 25 July 1995 and in particular article 53(2) and (3) of the Constitution, which lays down the right of public servants to establish associations and to collective bargaining in accordance with a special law that will govern this matter. The Committee expresses the firm hope that legislation will be adopted in the near future under this provision and that it will contain provisions which are in accordance with the requirements of Conventions Nos. 98 and 151, which have been ratified by Turkey.

3. As regards compulsory arbitration, the Committee notes that the Government representative maintains the Government's position that Act No. 2822, section 33, which imposes such arbitration, is not in contradiction with the principles of the Committee. He emphasized that the wording of this provision concerning cases that are likely to be prejudicial to public health or national security are fully in conformity with the position of the Committee of Experts. Furthermore, any government decision is subject to the supervision of the independent judiciary. The interested parties can also have recourse to voluntary arbitration at any time. Finally, the Government can withdraw its decision if the circumstances justifying it no longer existed.

The Committee notes this information, but it once again recalls that legislation should limit recourse to compulsory arbitration to essential services in the strict sense of the term. Consequently, in the Committee's view, Act No. 2822, section 33, should only apply to services the interruption of which would endanger the life, safety and health of the whole or part of the population. The Committee therefore requests the Government to take the necessary measures rapidly to limit the scope of section 33.

4. In view of the fact that the important problems described in this observation have been raised for several years, the Committee, while noting with interest certain developments at the constitutional level, considers it necessary to remind the Government

that the assistance of the Office is at its disposal to facilitate the removal of the obstacles which are preventing the Convention from being fully applied.

5. The Committee also notes that the Government has not provided its observations on the comments made by **TURK-IS** and **DISK** on the application of the Convention. The Government sent its report on the application of the Convention during the present session of the Committee. The latter does not doubt that the Government has replied to some of the questions raised above. It will examine the Government's report during its next meeting. In order to complete the information at its disposal, the Committee requests the Government to reply to all the points raised by the two confederations in its next report.

[The Government is asked to report in detail in 1996.]

United Kingdom (ratification: 1950)

The Committee notes the information provided in the Government's report, as well as the communication from NASUWT, the Career Teachers' Organization, dated 25 September 1995, and the communication from the Trades Union Congress (TUC) dated 31 October 1995. It has also taken note of the Government's reply of 21 November 1995 to certain matters raised in the TUC communication. Finally, the Committee notes the conclusions of the Committee on Freedom of Association in Case No. 1730 (294th Report of the Committee, approved by the Governing Body at its 261st Session (June 1994)).

1. *Articles 1(2)(b) and 4 of the Convention.* The Committee notes the conclusions of the Committee on Freedom of Association in Case No. 1730 concerning the effect of section 13 of the Trade Union Reform and Employment Rights Act of 1993 (TURER) as it amended the provisions of the Trade Union and Labour Relations (Consolidation) Act of 1992 (TULRA) dealing with the protection granted to workers against action short of dismissal on grounds related to union membership or activities. The Committee on Freedom of Association concluded, in respect of this amendment, that "inasmuch as its effect is indeed to prevent tribunals from redressing situations such as those in the *Wilson* and *Palmer* cases (*Associated Newspapers, Ltd. v. Wilson* and *Associated British Ports v. Palmer*), where employees who refuse to give up the right to collective negotiation were deprived of a pay raise, the Committee considers that that amendment raises significant problems of compatibility with the principles of freedom of association, in particular as regards *Article 1(2)(b)* of Convention No. 98. In addition, such a provision can hardly be said to constitute a measure to 'encourage and promote the full development and utilization of machinery for voluntary negotiation ... with a view to the regulation of terms and conditions of employment by means of collective agreements', as provided in *Article 4* of Convention No. 98", (294th Report, paragraph 202). The Committee notes the indication in the Government's report that section 13 was not introduced as an attack on trade union membership rights, but rather was intended to ensure that there was no obstacle to the ability of employers to change their negotiating arrangements and to make clear that the right not to be discriminated against on trade union membership grounds did not include or imply a right to have one's terms and conditions negotiated by collective bargaining.

The Committee recalls that, when ratifying Convention No. 98, the Government undertook to take appropriate measures to encourage and promote the full development and utilization of machinery for the voluntary negotiation between employers and *workers' organizations* with a view to the regulation of terms and conditions of employment by means of *collective agreements*. The Committee considers that section 13 of the said legislation is likely to result in a situation wherein collective bargaining is easily and effectively *discouraged* instead of being *encouraged*. It therefore requests the Government to indicate in its next report any steps taken to review section 13 of the TURER and to amend it so that it will not result in the effective discouragement of collective bargaining in contravention with Article 4 of the Convention.

As regards denial of employment on the grounds of trade union activity, the Committee notes that, in March 1995, the House of Lords reversed the Court of Appeal's ruling in the *Wilson* and *Palmer* cases. The new point of law in the House of Lords judgement concludes that the term "action" in "action short of dismissal" does not include an omission such as the withholding of a wage increase offered only to employees agreeing to sign individual contracts. Furthermore, while noting with interest the Employment Appeal Tribunal (EAT) decision of February 1995 in the case of *Harrison v. Kent County Council* which found that an individual refused employment because of his or her trade union activities may be considered to have been unlawfully refused employment because of his or her trade union membership, the Committee has also observed that the House of Lords judgement in the *Wilson* and *Palmer* cases gave some consideration to the meaning of trade union "membership" protected against acts of discrimination under TULRA section 146(1)(a). In particular, some of their Lordships concluded that the protection of trade union membership against discrimination did *not* include protection for making use of the essential services of the union and therefore found that there was no evidence showing that the *purpose* for withholding the wage increase was to deter the applicant from *remaining a member of the union*.

The House of Lords judgement in the *Wilson* and *Palmer* cases has reinforced the Committee's apprehensions that the legislative protection to be afforded to workers against acts of anti-union discrimination in their employment, by virtue of Article 1 of the Convention, seems to be insufficient. Furthermore, the restrictive interpretation of the meaning of the term "action" and the uncertainty surrounding the understanding of what is actually to be protected from action short of dismissal under TULRA section 146(1)(a) might also aim at contravening Article 4 of the Convention insofar as it does not protect the use of a union's essential services (e.g., collective bargaining) from acts of anti-union discrimination. The Committee therefore would ask the Government to take the necessary measures to amend the legislation to bring it into conformity with Articles 1(2)(b) and 4 so as to ensure effective protection of workers from any action taken by the employer, or omission to act, which would result in penalizing workers for attempting to regulate their terms and conditions of employment through collective bargaining. It would also request the Government to indicate in the future whether any subsequent court judgements have reversed the principle established in *Harrison* and, if so, to provide a copy of any such judgement.

2. *Determination of schoolteachers' pay and work conditions in England and Wales*. The Committee notes from the information provided in the Government's latest report that the Schoolteachers' Pay Review Body (STRB) has continued to function according to the same procedures as noted in the Committee's previous comments. It also notes that the Government has accepted the STRB recommendation for a pay increase of 2.9 per cent for all teachers in 1994 as well as its 1995 recommendation for a 2.7 per cent pay increase. It further notes the NASUWT communication wherein the Career Teachers' Organization indicates that it considers that the Review Body created in 1991 for determining teachers' pay is superior to the machinery which previously existed. NASUWT does consider, however, that there are two defects in the STRB: (1)

the Government seeks to impose very heavy handed financial limits; (2) the present membership of the Review Body is not representative enough of society in general.

The TUC for its part has stated that the Government's explanation of the practical operation of the STRB does not satisfy the largest British trade union of teachers, the National Union of Teachers (NUT), whose fundamental position remains one of dissatisfaction that the Review Body does not permit for voluntary *negotiation*.

In its reply of 21 November 1995, the Government recalls that the NUT is only one of six major unions representing the interests of schoolteachers. The Government states that the other five unions, which represent over 65 per cent of teachers, have no objection to the review body principle. Finally, the Government recalls the procedures followed by the STRB and the measures taken to ensure that the positions of the unions are heard.

The Committee notes this information and trusts that the review machinery will continue to function in practice in a manner that will not hamper the freedom of collective bargaining.

3. As regards its previous comments concerning denial of employment on grounds of trade union membership or activity and dismissals in connection with industrial action, the Committee has taken note of the detailed comments made by the TUC and requests the Government to furnish information in its next report in reply to the matters raised in its communication.

Venezuela (ratification: 1968)

The Committee notes the Government's report and the conclusions of the Committee on Freedom of Association in Case No. 1612 (298th Report, para. 20, approved by the Governing Body at its 262nd Session, March-April 1995).

The Committee recalls that its previous comments referred to:

- request for details on the possibility for organizations of civilian staff employed in the armed forces and independent institutions and state enterprises dependent on the Ministry of Defence to be able to conclude collective agreements (sections 7 and 8 of the Fundamental Labour Act);
- the reinforcement of penalties applicable in cases of anti-union discrimination and interference so that they are sufficiently effective and dissuasive (sections 637 and 639 of the Fundamental Labour Act, which limits fines to two minimum wages); and
- the restrictions on collective bargaining (sections 473(2) and 507 of the Fundamental Labour Act).

With reference to the first issue, the Committee takes due note that, according to the information supplied by the Government, civilian staff employed by the armed forces and independent institutions and state enterprises dependent on the Ministry of Defence fulfil an important administrative role related to the constitutional mandate of the Ministry to maintain order and preserve national sovereignty. The Committee also notes the unified National Federation of Public Employees is responsible for negotiating collective agreements for all public employees, and that the Government recently concluded two collective agreements with various trade union organizations covering most of the workers in the public sector; one agreement is applicable to manual workers and the other to public employees. It notes that the economic terms of these agreements are also applicable to workers in the defence sector.

The Committee regrets that the Government has not replied to its other comments and therefore once again requests it to take the necessary measures to ensure that the penalties applicable in cases of anti-union discrimination and interference (sections 637 and 639 of the Fundamental Labour Act) are not merely symbolic in their nature, and that the appropriate measures are taken to ensure that they are sufficiently effective and dissuasive.

With regard to the third issue, the Committee once again requests the Government to take the necessary measures, in consultation with the social partners, to ensure that in practice workers and their trade union organizations can conduct voluntary and free collective negotiations with their employers, if both parties so wish.

The Committee requests the Government to inform it in its next report of the measures adopted in relation to its previous comments.

Yemen (ratification: 1962)

The Committee notes that the Government's report has not been received.

However the Committee notes the new Constitution, dated 28 September 1994, and particularly Article 57 under which every citizen shall have the right to form unions to serve the objectives of the Constitution and that the State shall take the necessary measures to help the citizens exercise this right.

The Committee is bound to recall that for several years its comments have covered the following points:

(a) the need to adopt specific and appropriate provisions, accompanied by effective and sufficiently dissuasive sanctions, to guarantee explicitly the protection of workers against any act of anti-union discrimination by employers, both at the time of recruitment and during employment, and the protection of workers organizations against acts of interference by employers, contrary to Articles *1 and 2 of the Convention*;

(b) the need to adopt appropriate measures to encourage and promote the full development and utilization of machinery for the voluntary negotiation of collective agreements; and

(c) the need to amend the provisions governing the compulsory registration of collective agreements and the possibility of their cancellation in the event that they do not conform with the security and/or economic interests of the country (sections 68, 69 and 71 of the Labour Code of 1970). Even though, according to the Government's previous reports, these provisions are not applied, they are such as to jeopardize the application of *Article 4*, by virtue of which collective bargaining must be free and cannot be subject to legal restrictions.

The Committee requests the Government to indicate in its next report the *measures which have actually been taken* to bring its legislation into conformity with the requirements of the Convention and, in particular, for the adoption of the new Labour Code, the draft text of which was prepared with the technical assistance of the Office, and the new Bill respecting trade unions.

Zaire (ratification: 1969)

The Committee notes with regret that for the third year in succession the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Committee notes that the draft Code adopted by the National Labour Council contains specific provisions to protect employers' and workers' organizations from acts of

interference by each other and provides for a strengthening of the penalties applicable to an employer who commits acts of anti-trade union discrimination in respect of employment.

The Committee would be grateful if the Government would supply the text of the revised Labour Code when it has been adopted by the competent authority.

2. In one of its previous comments, the Committee requested the Government to indicate whether the measures taken by the Executive Council to fix the rates of wage increases in public enterprises, to which it referred in a previous report, were still in force.

The Government pointed out that the right of free collective bargaining is recognized for these enterprises in accordance with section 266 of the Labour Code and sections 13 and 14 of the National Inter-Occupational Collective Agreement. According to the Government, wage increases in public enterprises are agreed upon through free collective bargaining between employers' organizations (or an individual employer) and workers' organizations on the basis of the minimum wage (SMIG) fixed by order of the President after consultation with the National Labour Council and at the proposal of the Minister concerned.

While noting this information, the Committee requests the Government to indicate the measures taken by the Executive Council as regards wages policy and to supply information on the manner in which the collective bargaining process in the public sector is carried out, including the number of collective agreements concluded and specifying the public servants (excluding those engaged in the administration of the State) whose terms and conditions of employment and wages are determined by collective bargaining.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Barbados, Belarus, Belize, Benin, Brazil, Bulgaria, Burkina Faso, Colombia, Comoros, Croatia, Ecuador, Ethiopia, Guatemala, Guinea, Guinea-Bissau, Honduras, Hungary, Italy, Kyrgyzstan, Latvia, Lebanon, Lesotho, Mongolia, Peru, Philippines, Poland, Romania, Rwanda, Slovenia.*

Information supplied by *Ireland, Slovakia* and *Venezuela* in answer to a direct request has been noted by the Committee.

Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951

Requests regarding certain points are being addressed directly to the following States: *Comoros, Sierra Leone.*

Convention No. 100: Equal Remuneration, 1951

Barbados (ratification: 1974)

Further to its previous observations concerning differentials in the wages paid to men and women in the sugar industry, the Committee notes the Government's statement in its report that differentials in the wages paid to men and women relate to differences in the type of work undertaken and that there is no discrimination on the basis of sex. The Committee also notes the agreement between the Barbados Workers' Union and the Sugar Producers' Federation, which sets out minimum wage rates by job category for the years 1989-91 inclusive. The Committee notes, however, that no statistical data are available relating to the number and sex of workers employed in the various wage categories. As the Government has sought information and advice from the Office on this matter, the Committee hopes that the Government will provide, in its next report, the information previously requested so as to enable it to assess the application of the Convention. In this connection, the Committee notes that a job evaluation exercise is being undertaken with the involvement of the employers' and workers' organizations. It would appreciate receiving information on the results of this exercise in the Government's next report.

Jamaica (ratification: 1975)

The Committee notes with regret that, for the fourth consecutive time, the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. In its 1991 observation, the Committee had noted that the Minimum Wage (Printing Trade) Order, 1973, which had provided for sex-differentiated job categories and pay scales had been revoked by the Minimum Wage (Printing Trade) Order, 1989, which had set a single rate of pay for an unskilled worker. However, in other respects the Order had simply removed explicit reference to the sex of the worker from various other categories, while at the same time maintaining both the former definitions of those categories and differentials in the respective increased minimum rates which appeared to correspond to those laid down in the 1973 Order. In the absence of any indication that measures were taken either to evaluate and compare jobs in categories which were formerly sex-denominated by applying non-discriminatory criteria or to ensure that those jobs were open to both sexes, the Committee had been forced to conclude that the wage distinctions based on sex in the 1973 Order had been maintained in the 1989 Order, despite the introduction of neutral language. The Committee had requested the Government to supply detailed information on the measures taken, either alone or in cooperation with the social partners, to ensure the application of the principle of the Convention in the printing trade as well as in other industries, such as the garment-making trade, where the Committee had previously noted that distinctions based on sex had apparently played a role in establishing differential minimum wage rates.
>
> At the Conference Committee in 1991, the representative of the Government stated that the tripartite Minimum Wage Advisory Commission would review the Minimum Wage Orders for the printing and garment industries before the end of 1991 and, in doing so, would take account of the Committee's comments regarding the application of the Convention. He assured the Committee that a comprehensive report, as well as copies of the new Orders, would be furnished as soon as this work had been completed.
>
> The Committee notes that no further reference is made in the report of the Government to the review of the above-mentioned Orders. The Committee trusts that the Government will indicate, in the near future, that it has taken the necessary action to ensure conformity with the provisions of the Convention.
>
> 2. In its previous direct request, the Committee had pointed out that section 2 of the Employment (Equal Pay for Men and Women) Act, 1975, only refers to "similar" or "substantially similar" job requirements, whereas the Convention provides for equal remuneration for work of "equal value", even of a different nature. The Committee notes that the Government has provided no information on the measures taken or envisaged to re-examine national legislation in the light of the requirements of the Convention. The Committee trusts that full information will be provided in this regard in the next report.
>
> 3. In its previous comments, the Committee had noted that minimum wage orders generally exclude any ancillary benefits from their scope, while the Convention, as well as the above-mentioned Act include in their scope any additional emolument whatsoever payable in cash or in kind to the worker in respect of work or services performed. The Committee

had therefore requested the Government to indicate how, in practice, equal remuneration is implemented with respect to benefits such as housing, marriage or family allowances, in both the private and public sectors. The Committee notes the statement of the Government in its report that there is equal remuneration in both the private and public sectors with respect to the benefits paid or granted in addition to salary.

The Committee, however, notes from the Government's report that while the payment of marriage allowances was discontinued during the 1970s, teachers who were receiving the allowance prior to its discontinuation have continued to receive it. Male teachers who fall into this category receive an allowance of $2,400 per annum.

The Committee points out that the continuing payment of marriage allowances to, it would appear, only male teachers who had entitlement to them prior to their discontinuation is contrary to the provisions of the Convention. It therefore requests the Government to ensure that those female teachers who were also employed prior to the date of discontinuance of the allowance but who were denied it on account of their sex are also granted a marriage allowance.

More generally, the Committee requests the Government to take the necessary steps to ensure that minimum wage orders and any regulations fixing wages for the public sector cover not only cash minimum wages but also any additional emoluments payable in cash or in kind.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Nepal (ratification: 1976)

1. In previous observations, the Committee has sought information on the means by which the principle of equal remuneration for work of equal value is applied in situations where women and men carry out different work noting, in this connection, that article 11(5) of the 1990 Constitution proscribes discrimination between men and women in regard to remuneration only "for the same work". Section 11 of the 1993 Labour Rules — which provides that "in the event that male or female workers or employees are engaged in work of the same nature in an establishment, they shall be paid equal remuneration without any discrimination" — is also a narrower formulation of equal pay than that required by the Convention. The Committee had also noted the concern expressed by the United Nations Human Rights Committee over discrimination against women in a number of respects, including wages (UN document CCPR/C/79/Add.42, 4 November 1994).

2. The Government states, in its report, that it is neither the spirit of the Constitution nor of the Convention that unequals are to be treated equally and that when and where the work differs, it is natural that there be differences in remuneration. As the Committee has pointed out on numerous occasions, the principle of the Convention is intended precisely to cover not only those cases where men and women undertake the same or similar work, but also the more usual situation where they carry out different work. In order to determine pay structures, the requirements of the different work carried out by men and women should be evaluated in a gender-neutral manner on the basis of objective criteria, that take adequate account of the aspects of men's and women's work. On this question of job evaluation, the Committee hopes that the Government will examine the recommendations contained in the report of an ILO mission to advise on wage fixing and equal pay (presented to the Government in 1993) and that the Government's next report on this Convention will contain information on any measures taken towards their implementation.

3. Referring to earlier comments about wage discrimination between men and women, especially in the organized tea plantations, the Government states that the principle of equal remuneration is applied in such a manner that its infringement is penalized, but that certain immunities have been granted exceptionally to employers in tea estates in order both to provide incentives to that industry — which is in an infant stage of development — and to enhance the employment opportunities of female workers. The Committee understands this to mean that the Government has taken action to exclude women workers in tea plantations from the guarantees accorded by both the Convention and the national Constitution. The Committee requests the Government to provide copies of the legal instrument granting such an exemption to employers in tea gardens. Please also indicate whether similar exemptions have been granted to employers in other industries. The Committee wishes to emphasize that the Convention, which enshrines a fundamental human right, applies to all workers in the economy and that no exceptions are permitted. While appreciating the necessity for awarding incentives to newly-emerging industries, the Committee stresses the need to ensure that any such initiatives be free of discrimination. The Committee trusts that the Government will report, in full, on the measures taken to ensure the application of the Convention to women workers in tea gardens, and in any other industry exempted from the guarantee of the Convention, in its next report.

Sri Lanka (ratification: 1993)

The Committee notes that the Government has not supplied the first report due on this Convention, but that the Ceylon Workers' Congress has transmitted comments on the application of *Article 3 of the Convention* alleging that no machinery has been established for the objective appraisal of work and on *Article 4* calling for arrangements to be determined for cooperation with workers' organizations on the implementation of the Convention once ratification comes into force. The Committee requests the Government to supply its observations on these comments together with the report due on this Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Central African Republic, Chad, Cyprus, Djibouti, Dominica, Equatorial Guinea, Gabon, Ghana, Guinea-Bissau, Haiti, Jamaica, Latvia, Libyan Arab Jamahiriya, Malawi, Mozambique, Nigeria, Saint Lucia, Sao Tome and Principe, Venezuela, Zaire.*

Convention No. 101: Holidays with Pay (Agriculture), 1952

Requests regarding certain points are being addressed directly to the following States: *Comoros, Costa Rica, Sierra Leone.*

Convention No. 102: Social Security (Minimum Standards), 1952

Bolivia (ratification: 1977)

In its previous comments, the Committee had pointed out that, pursuant to section 51 of Supreme Decree No. 22-578 of 13 August 1990, the Bolivian social security system does not provide for the payment of family benefits in the manner prescribed under *Article 42, Part VII (Family benefits), of the Convention*. In reply, the Government limits itself to stating that the regime of family allowances is under the administration of the employers, and that the social security system monitors compliance. In these circumstances, the Committee cannot but again express the hope that the Government will adopt the necessary measures to re-establish a regime of family benefits which complies with the provisions of Part VII of the Convention.

Croatia (ratification: 1991)

The Committee notes the communications, dated 15 March 1995, from the Union of Autonomous Trade Unions of Croatia (UATUC) concerning the application of Convention No. 102, as well as Conventions Nos. 111 and 122, inasmuch as the issues raised under these latter instruments relate also to the application of *Part IV (Unemployment benefit) of Convention No. 102*.

1. In its communication referring to Convention No. 102, the UATUC alleges that a large number of workers in Croatia have been recently denied health protection on the basis of section 59 of the Health Insurance Act in force as of 13 August 1993 which, according to the documents submitted by the UATUC, provides, in particular, that for contribution-payers who fail to pay the insurance contribution, the use of health protection funded by the Institute for Health Insurance shall be reduced to the right to emergency medical aid only. The UATUC points out that under the said legislation the obligation to pay a contribution rests with the employer who deducts it from the wage of the insured workers employed by him, and that in case the employer fails to pay the contribution, the insured worker has no legal possibility to personally pay the contribution, nor does he have any other legal means of recourse to force the employer to pay it, while the Institute for Health Insurance to which the contributions are paid, has the legal possibility to exact payment from employers. According to the UATUC, the above-mentioned section 59 of the Health Insurance Act is being applied with the result that workers are being denied all forms of health protection, except for emergency medical aid. It adds that it has instituted a procedure with the Constitutional Court of the Republic of Croatia to abolish this provision.

The Committee wishes to recall in this connection that *Article 69 of the Convention* which enumerates the cases in which benefits provided under the Convention, including medical care, may be suspended, does not refer to the situation of non-payment of contributions on behalf of the insured person. The Committee therefore hopes that the Government's next report would contain a detailed reply to the allegations made by the UATUC, including information on any measures taken or contemplated to give full effect to the Convention on this point, as well as the above-mentioned decision of the Constitutional Court, if taken.

2. In its communication concerning the application of Conventions Nos. 111 and 122, the UATUC points out significant questions raised by the amendments of the Employment Act of 21 October 1994. According to the UATUC, these amendments have taken off the unemployment record a number of unemployed persons in a certain number of cases, such as when they become major owners or co-owners of an enterprise, trade or farm; become members of a farming household; are found working without having entered into employment; or have refused employment inferior to their qualifications, seasonal work, a socially useful job, etc. The UATUC adds that some of the grounds for being taken off the unemployment record are considerably wider than the reasons provided for in article 51 of the Employment Act which regulates the loss of the right to an unemployment allowance. On 12 January 1995 the Union challenged

the constitutionality of these provisions before the Constitutional Court of the Republic of Croatia.

The Committee notes this information. In view of the fact that the changes in the Employment Act adopted in 1994 may affect the application of Part IV (Unemployment benefit) of Convention No. 102, in particular as concerns the definition of contingency and of the term "suitable employment", as well as the determination of the cases of suspension of benefit (Article 69 of the Convention), the Committee would hope that in its next report the Government would not fail to provide:

(a) detailed information on the application of the provisions of Part IV (Unemployment benefit) of Convention No. 102 in light of the allegations made by the UATUC;

(b) the text of the Employment Act together with all the latest amendments, as well as any other relevant legislation;

(c) a copy of the decision of the Constitutional Court of the Republic of Croatia on this case, if any.

3. The Committee also hopes that the Government's next report will contain full particulars on the application of all the Parts of the Convention that have been accepted, together with the text of the relevant national legislation adopted since 1991.

Peru (ratification: 1961)

The Committee notes that the Association of Retired Oil Industry Workers of the Metropolitan Area of Lima and Callao has transmitted new observations, which were received by the Office in November 1995. These observations were transmitted to the Government on 17 November 1995 for it to make its own comments. The Committee trusts that the Government's next report will also include its comments and information on the matters raised by the above organization, as well as on the points raised in the Committee's observation and direct request of March 1995.

Spain (ratification: 1988)

With reference to its previous observation, the Committee notes the comments made by the General Union of Workers (UGT) on the application of Convention No. 102, as well as the Government's reply to them, communicated together with its report in January 1995. It also refers to the UGT's comments and the Government's reply concerning Convention No. 24, in as much as they also raise issues relating to Convention No. 102.

1. In its comments, the UGT states that the reform, introduced by Royal Legislative Decree No. 5/1992 of 21 July 1992 concerning urgent budgetary measures respecting the cash benefits in case of temporary incapacity to work (ILT) due to sickness or injury not occupational in origin, establishes that the employer is liable to pay cash benefit to the worker from the fourth through the 15th days of absence, both inclusive. This reform has resulted in important problems because the Government does not assume directly, during this period, the guarantees provided by the Convention. The UGT considers that with this reform, cash benefit for ILT has been privatized in Spain, at least for 15 days, which departs substantially from the spirit of Convention No. 102. Furthermore, adds the UGT, the new formula, intended to combat worker absenteeism caused by ILT, could result in employer conduct and practices which offend against the dignity of the worker. Employers routinely submit workers to a disproportionate scrutiny by bypassing the health authorities which sign the periodic official sections of forms for medical leave, and requiring workers to undergo an examination before their own doctors, as provided

under section 20(4) of the Workers' Charter. The said section authorizes the employer to require verification of incapacity and to suspend payment of sickness benefit for which he is liable if the worker fails to submit to an examination. The UGT also states that, presently, employers are beginning to suspend payment of benefit from the beginning of the absence except for accidents or in cases requiring surgery, forcing workers to appeal to the courts for payment of benefit in each instance of illness.

In reply, the Government indicates, with reference to judicial decisions 37/1994 and 129/1994 of the Constitutional Court, that the modification introduced by Royal Legislative Decree 5/1992 concerning ILT has not affected the level of protection for workers, nor has it changed either the public nature or the character of the basic benefit. The Government asserts that this modification does not affect the application by Spain of Convention No. 102, as it does not impose rigid formulas for managing the national social security systems. Recalling the content of section 20(4) of the Workers' Charter, it adds that doctors who are registered with the social security scheme have the competence to determine the state of temporary incapacity of the worker, which gives rise to the right to receive the corresponding cash benefit, and have to issue the certificates for medical leave in conformity with the official model and the procedures established under the Order of 13 October 1967. The Government warns, none the less, that it is necessary to examine the historical context of section 20(4) of the Workers' Charter. At that time, payment of benefit by the employer was limited to benefits of a supplementary nature which derived from collective agreements or were provided to workers at the employer's discretion as a supplement to the publicly funded benefits. At the present time, with the modification carried out, the legal obligation placed exclusively on employers is of a public nature and not private. For this reason, it is considered that the above-mentioned section 20(4) does not apply since the payment of cash benefit from the fourth through the 15th days for ILT, although derived from a contractual relationship, is not directly part of such a relationship. The Government concludes by indicating that for the possible cases of incomplete fulfilment of the standards cited by the UGT, there exist means to guarantee the re-establishment of the rights through labour and social security inspection as well as through the social courts.

The Committee takes note of this information. It observes that, in conformity with section 131(1) of the General Law of Social Security (texts consolidated in Royal Legislative Decree No. 1 of 20 June 1994), in case of common illness or an accident not related to work, the same indemnity of the general social security system for ILT is to be paid by the employer from the fourth through the 15th days of absence, and paid by the social security system from the 16th day. According to section 77(1)(d) of said Law, an employer which cooperates in assuming responsibility for the direct payment of benefit for ILT under the conditions established by the Ministry of Labour and Social Security has the right to a reduction in its contribution to the social security system, in accordance with the coefficient fixed by the Ministry. In reference to these legal provisions, the Committee also notes that, according to the Government, the public character of the social security system is not put into question by recourse to means of private management or responsibility, since the reform does not alter the predominant role and the obligation of the public authorities, in their supervisory role, in the event of the contingency of incapacity to work.

The Committee considers that the modification introduced by Royal Legislative Decree No. 5/1992 appears to be permitted under *Article 69(c)* of Convention No. 102 which specifies that benefit may be suspended as long as the beneficiary is receiving another social security cash benefit or is indemnified for the same contingency by a third party. However, the Committee recalls that in such cases the Government shall continue to assume general responsibility concerning the due provision of sickness benefits and must take all measures required for this purpose, in conformity with *Article 71, paragraph 3, of the Convention*. Given the nature of the UGT's comments, the Committee asks the Government to indicate the measures taken to assure in practice that employers pay sickness indemnity for the first 15 days of incapacity, in a manner which prevents all forms of abuse. It asks the Government in particular to specify the process which the workers must undergo to qualify for sickness benefit, including which doctors are authorized to grant medical certificates, taking account of the fact that, according to the Government's report, section 20(4) of the Workers' Charter appears not to apply. The Committee also asks the Government to supply: the text of any regulations adopted by the Ministry of Labour and Social Security, in application of section 77(1)(d) of the General Law of Social Security; the text of any administrative and judicial decisions concerning this issue; as well as detailed information on the inspections conducted by the labour and social security inspection, including the number of inspections carried out, the violations discovered and the sanctions imposed. Finally, it requests the Government to indicate in what manner and by virtue of which provisions the payment of sickness benefit is insured in case of employer insolvency.

2. In its observations concerning Convention No. 24 the UGT indicates that the Government has proposed to amend the law to transfer to the private sector the payment of cash benefits for incapacities of longer duration (Provisional Invalidity and Permanent Incapacity for Work), currently managed by the public services of the social security system, which would result in privatization of benefits and of related health care. It further indicates that, regarding the management of benefits for permanent incapacity, workers are subjected to a double administrative decision: one entity verifies the incapacity and the other determines the benefit. This double procedure makes it impossible to take into consideration, beyond medical criteria, criteria of a social nature for the granting of this type of social benefit. Furthermore, according to the UGT, the unions do not effectively participate in the administration of the ILT benefits, or of the benefits for permanent invalidity or incapacity, since the General Council of the National Institute of Social Security (INSS) is an information body only, which does not go beyond the level of mere consultation.

In reply, the Government indicates that the draft law on fiscal, administrative, and social measures, approved by the Government, will combine into a single benefit the current benefits for ILT and temporary invalidity. This unification does not concern privatization of the cash benefits or health care. The draft law also involves the unification of the procedure for declaring and verifying permanent incapacity, placing all of the steps of the procedure in the INSS, which is charged with the management of the scheme. Finally, regarding the participation of unions in the management of the scheme, the Government states that the means of participation in the control and supervision of the management is realized through the general councils, the executive commissions, and the provincial executive commissions, regulated respectively by Royal Decrees Nos. 1854/1979, 1855/1979 and 1856/1979, which regulate the structure and competence of the INSS, the National Health Institute and the National Institute of Social Services. In these institutes, the unions, employers' organizations and public administration are equally represented.

The Committee notes this information and particularly the intention of the Government to combine benefits related to temporary incapacity for work and to provisional invalidity into a single benefit. It recalls in this connection that Spain has accepted the obligations of Convention No. 102 with respect to sickness benefit (Part III), but not with respect to invalidity benefit (Part IX). The Committee hopes, however, that in elaborating the draft legislation establishing a single benefit for temporary incapacity referred to above, full account will be taken of the relevant provisions of the Convention. The Committee would like to receive the text of this legislation, once adopted.

3. In its comments under Convention No. 102 the UGT also raises the question concerning the denial of the right to sickness benefit and unemployment benefit to young persons covered by the contract of apprenticeship, by virtue of section 3, paragraph 2(g), of Royal Legislative Decree No. 18/1993. In this respect the Committee refers to its comments under Conventions Nos. 24 and 44, also ratified by Spain.

4. Finally, the Committee hopes that the Government's next report will contain full information on the points raised in its observation and direct request of 1993.

United Kingdom (ratification: 1954)

The Committee notes the Government's report containing texts of the new legislation as well as detailed information in reply to its previous comments. Taking into account that the report was received just before the opening of its session, the Committee decided to defer its examination until its next session 1996.

Venezuela (ratification: 1982)

Part II (Medical care), Article 9, and Part VIII (Maternity benefit), Article 48. With reference to its previous comments, the Committee notes with interest, from the Government's report, that the coverage of the general social security scheme has been extended to the public sector employees, as regards medical care and cash benefit for temporary incapacity, by Decree No. 3325 of 13 January 1994, and that basic principles permitting the affiliation of artisans and artists to this scheme were laid down by Decree No. 2558 of 1992. The Government adds that studies have been carried out with a view to further extending its coverage to some other categories of workers and geographical regions of the country. As the statistical data also supplied by the Government with its report does not yet reflect these changes, the Committee would be grateful if the Government's next report would contain up-to-date statistical information in the form required under *Title I, article 76, paragraph 1(b), of the report form* on the Convention adopted by the Governing Body, specifying in particular the number of employees protected in relation to the total number of employees.

Part II (Medical care), Article 10, paragraph 1(a). The Committee notes the information provided by the Government with respect to restructuring of the Venezuelan Social Security Institute (IVSS) and decentralizing its medical care services, as well as the regulations of hospitals of the IVSS. In view of the fact that neither the Social Insurance Act, nor the General Regulations issued under it, specify the types of medical care ensured to the protected persons, the Committee would like the Government to indicate what specific provisions in laws, regulations or administrative rules guarantee the provision of the types of the medical care required by Article 10, paragraph 1(a), of the Convention. Please supply also, when adopted, a copy of the internal rules to be issued by the Board of Governors of the IVSS in pursuance of section 119 of the above-mentioned General Regulations stipulating that the IVSS will provide medical care in the form and conditions set forth by the Board.

Part VIII (Maternity benefit), Article 50 (in conjunction with Article 65). Further to its previous comments, the Committee recalls that by virtue of section 98 of the General Regulations of the Social Insurance Act, a ceiling is applied to the wages that are subject to social security contributions; it therefore has requested the Government since 1989 to supply statistical information enabling it to verify that the amount of maternity benefit attains the percentage prescribed by the Convention (45 per cent) for a women employee whose wage is equal to that of a skilled manual male employee, in accordance with *paragraph 3 of Article 65 of the Convention*. In reply, the Government once again referred to the statistical information compiled by the IVSS which however does not contain the required data. In this situation, the Committee strongly hopes that the Government will take the necessary measures in order to compile and to supply in its next report the statistical information requested in *Titles I and V under article 65 of the report form* on the Convention adopted by the Governing Body.

Part VIII (Maternity benefit), Article 52. In reply to the Committee's previous comments, the Government indicates that the payment of the postnatal maternity benefit is made in accordance with section 385 of the Organic Labour Act, in force from 1 May 1991, and not in accordance with section 143 of the General Regulations of the Social Insurance Act. The said Regulations will be amended to expressly extend the duration of the payment of postnatal maternity benefit to the end of the 12 week-period of postnatal maternity leave established by section 385. The Committee notes this information with interest. It hopes that this amendment will be adopted soon so as to formally harmonize the social security legislation with the Organic Labour Act in this respect, in line with Article 52 of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: *Cyprus, Slovenia, Zaire*.

Convention No. 103: Maternity Protection (Revised), 1952

A request regarding certain points is being addressed directly to *Guatemala*.

Convention No. 105: Abolition of Forced Labour, 1957

Algeria (ratification: 1969)

Article 1(a) of the Convention. In comments it has been making for many years, the Committee has referred to the provisions concerning the right of association, under which sentences of imprisonment involving compulsory labour may be imposed in circumstances covered by the Convention.

The Committee noted that under section 5 of Act No. 90-31 concerning associations, any association whose objectives are contrary to the established institutional system, the public order, morals or existing laws or regulations shall be legally non-existent and, under section 45 of the same Act, any person who directs, administers or agitates in an association that is not recognized or that has been suspended or dissolved, or who facilitates the meetings of members of an association that is not recognized or has been suspended or dissolved, shall be punished by a penalty of imprisonment of from three months to two years.

The Committee observed that sections 2 and 3 of the Interministerial Order of 26 June 1983 prescribing the procedure for the utilization of prison labour by the National Agency for Educational Work, provide that, unless exempted on medical grounds, convicted prisoners (without distinction as to the nature of the conviction) shall be required to perform useful work as part of their re-education, training and social development.

The Committee observes that, despite the adoption of new legislation on associations, the discrepancies between the national legislation and the Convention, to which the Committee has been referring for several years, have not been eliminated.

The Committee recalls once again that the Convention prohibits the use of any form of forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Committee also recalls that the protection afforded by the Convention is not confined to activities expressing or manifesting divergent opinions in the framework of established principles. Consequently, if certain activities are aimed at making fundamental changes in the institutions of the State, this does not constitute a reason for considering that such activities are outside the protection afforded by the Convention, provided that they do not involve the use of, or incitement to, violent efforts to bring about that result.

The Committee has requested the Government on several occasions to take the necessary steps to ensure observance of the Convention either by lifting the restrictions on the right of association or by exempting from prison labour persons who are sentenced for breach of the laws on associations or, more generally, for political offences, and who have not committed acts of violence.

The Committee has noted from the information in the Government's report that work was in progress at the Ministry of Justice to harmonize the above-mentioned Interministerial Order of 26 June 1983 with international Conventions. It notes that according to the Government's latest report the amendment procedure is not yet complete. The Committee trusts that the necessary measures will be adopted in the near future to ensure observance of the Convention and asks the Government to report on progress in this matter.

The Committee also asks the Government to provide information on the practical effect given to sections 3, 5, 6 and 36 of Act No. 89-11 and sections 5 and 45 of Act No. 90-31, particularly with regard to convictions handed down under these provisions, and to provide copies of the corresponding court decisions.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Bangladesh (ratification: 1972)

The Committee notes the Government's report.

Article 1(c) and (d) of the Convention. 1. In its previous comments, the Committee observed that under sections 101 and 102 of the Merchant Shipping Act, 1923, seamen could be forcibly conveyed on board ship to perform their duties, and under sections 100 and 103(ii), (iii) and (v) various disciplinary offences by seamen, concerning cases where life, health or safety are not endangered, were punishable with imprisonment which may involve an obligation to work. The Committee noted that the Bangladesh Merchant Shipping Ordinance, 1983, which has repealed the 1923 Act, again provided in sections 198 and 199 for the forcible conveyance of seamen on board ship to perform their duties, and in sections 196, 197 and 200(iii), (iv), (v) and (vi) for the punishment, with imprisonment that may involve an obligation to work, of various disciplinary offences in cases where life, safety or health are not endangered.

The Committee requested the Government to review the Ordinance adopted in 1983 and to indicate the measures taken or contemplated to bring it into conformity with the Convention. In its latest report, the Government indicates that the Ordinance is under process for further amendment and a copy would be sent as and when it is amended.

The Committee hopes that the amendment takes the above-mentioned points into consideration and that the Government will soon be in a position to indicate that the necessary action has been taken to bring the Ordinance into conformity with the Convention.

2. A certain number of other legislative texts which call for comment under Article 1(a), (c) and (d) of the Convention are again dealt with in a request addressed directly to the Government.

Brazil (ratification: 1965)

The Committee refers to its comments made on the application of Convention No. 29.

Canada (ratification: 1959)

The Committee notes the Government's report for the period July 1991-June 1994.

Article 1(c) and (d) of the Convention. Further to its previous observations, the Committee notes with satisfaction that the Miscellaneous Statute Law Amendment Act, 1992, deleted sections 243 to 246 of the Canada Shipping Act which provided for the forcible return on board ship of deserters and seamen absent without leave.

In previous comments the Committee also referred to section 247(1)(b), (c) and (e) of the Canada Shipping Act, under which penalties of imprisonment involving compulsory labour may be imposed for breaches of discipline that do not endanger the safety of the ship or the life or health of persons. The Committee has noted with interest from the Government's report that it was intended to remove the penalties of imprisonment from section 247(1)(b) and (c) through a planned Miscellaneous Statute Law Amendment Act in 1995 without prior formal discussions with the industry, and that the timing of the Act was dependent on the Government's overall legislative priorities. The Government further indicates that considerations respecting section 247(1)(e) will involve discussions with industry within the general context of modernization of the Canada Shipping Act, planned for 1996 on that part of the Act, Part III, in which section 247 is found. This scheduling is likewise subject to governmental and departmental priorities. The Government's intention would be to retain the possible option of imprisonment only for breaches of discipline which endanger safety, life of health.

The Committee hopes that the Government will soon be in a position to report further progress in bringing the Canada Shipping Act into conformity with the Convention.

Central African Republic (ratification: 1964)

The Committee notes with interest the coming into force in 1995 of a new Constitution which guarantees, inter alia, the freedoms of expression, assembly and association.

In its previous comments, the Committee noted that sentences of imprisonment involving compulsory labour could be imposed under the provisions of Act No. 60/169 (dissemination of banned publications) and Order No. 3-MI of 25 April 1969 (dissemination of foreign periodicals or news that has not been approved by the censor).

The Committee notes that by virtue of Article 13 of the new Constitution, the freedom of the press is recognized and guaranteed and that it is exercised under the conditions established by law. It also notes that by virtue of Article 12, associations, societies and establishments whose activities are contrary to public order and the unity of the Central African people are prohibited.

The Committee requests the Government to indicate whether Act No. 60/169 and Order No. 3-MI have been formally repealed and, if so, to supply a copy of the legislation repealing the above texts.

The Committee also requests the Government to supply copies of the legislation adopted under Article 13 (freedom of the press) and Article 12 (freedom of association) of the new Constitution.

Chad (ratification: 1961)

In the comments that it has been making since 1978, the Committee has referred to the provisions of Ordinance No. 30/CSM of 26 November 1975, and to Act No. 15 of 13 December 1959, under which any person who has participated in a strike is punishable by imprisonment involving forced labour, as well as Act No. 35 of 8 January 1960 respecting subversive texts. The Committee once again notes the Government's indications in its report that the competent ministries have again been requested to repeal or amend the texts that are contrary to the Convention.

The Committee hopes that the Government will report the measures adopted for this purpose in the very near future.

The Committee notes the adoption of the Decree of 1 May 1994 respecting the right to strike and the settlement of collective disputes. It requests the Government to provide a copy of the above Decree.

Colombia (ratification: 1963)

Article 1(d) of the Convention. The Committee noted in its previous observation the discussions that took place at the Conference Committee in 1993 and 1994 on the Freedom of Association and Protection of the Right to Organize Convention (No. 87) and the Right to Organize and Collective Bargaining Convention (No. 98), during which the Worker members expressed their concern at the criminalization of trade union activities by applying anti-terrorist legislation and various sections of the Penal Code to workers participating in strikes. The Committee also noted the information provided to the Committee on Freedom of Association by the United Central Workers' Organization (CUT) on these matters. The provisions referred to include:

Penal Code: section 187: terrorism; section 290: breach of the freedom to work; section 291: sabotage; section 276: unlawful constraint; section 370: damage to the property of others; section 313: insult; section 164: violence against an official of the State; and section 5 read with sections 2 and 3 of Act No. 23 of 1991: breaking and entering and unlawful occupation of the workplace. The penalties under these provisions are one to ten years of imprisonment for the offence of terrorism, detention of from six months to three years under section 290, and one to six years' imprisonment for the other provisions of the Penal Code.

The Committee notes the Government's statement to the effect that in Colombia there are no penalties for exercise of the right to strike and that the provisions indicated apply to real criminal acts which bear no relation to the exercise of the right to strike.

The Committee requests the Government, in order to ascertain the scope of the provisions mentioned in the Penal Code, to supply information on the application in practice of such provisions, including the number of judicial convictions handed down in application of them during the past three years and the sentences given.

The Committee noted section 79 of the Prisons Code (Act No. 65 of 1993) under which work is compulsory for convicts in prison establishments as an appropriate therapeutic means of preparing them for reintegration into society.

The Committee notes the decision of the Constitutional Court (No. C-94/95) which declares that section 79 of the Prisons Code (Act No. 65 of 1993) under which work is compulsory for convicts is in accordance with the Constitution.

The Committee observes that the Prisons Code does not provide for exemption from the obligation to work for persons who may be convicted for participating in strikes. Under article 83 of the Prisons Code the only exemptions from this obligation are for persons over 60 years of age, those persons suffering from illness which makes them unfit, and women during the last three months of pregnancy and for one month after childbirth.

The Committee recalls that, as it indicated in paragraphs 102 to 109 of the *General study on the abolition of forced labour* of 1979, the States which ratify the Convention are obliged to abolish all forms of forced labour including prison labour resulting from a conviction, in the five cases provided for in the Convention.

The Committee requests the Government to supply information about the measures taken or envisaged to avoid, in conformity with the provisions of Article 1(d) of the Convention, the imposition of sentences which involve forced labour for participation in strikes.

Cuba (ratification: 1958)

Article 1(b) of the Convention. In its previous comments, the Committee referred to Act No. 1253, which provides that young persons who are under a duty to perform active military service, and who are not called upon to perform that service in regular units of the Revolutionary Armed Forces, shall be called up into the Youth Labour Army. The same Act provides for the performance of productive agricultural work that the Revolutionary Government may determine. The Committee requested the Government to take the necessary measures to ensure that entry into the Youth Labour Army is voluntary.

The Committee notes that Act No. 75 respecting the National Defence, of 21 December 1994, which was supplied by the Government, repealed Act No. 1253. It also notes the Government's indications concerning Act No. 75, in which it refers to the conditions of work and wage rates established for the activities carried out in the Youth Labour Army. It also notes the indications concerning section 70 of the Act respecting the procedures of recruitment commissions, in which the Committee notes that the above section refers to cases of deferral or exemption from active military service.

With regard to active military service, the Committee notes that, under the terms of section 67 of Act No. 75, citizens aged between 17 and 28 years of age have to carry out active military service for a period of two years and that those who are assigned to the Youth Labour Army serve two additional months of combat preparation. Section 45 of Act No. 75 establishes the duties of the Youth Labour Army, namely "to undertake productive activities in the interest of the social and economic development of the country; to implement measures for the protection of the environment and the rational use of natural resources; to undertake the military preparation of its members ..."

The Committee notes that, under the terms of Act No. 75, the productive activities which were exacted by virtue of Act No. 1253 from the members of the Youth Labour

Army, are now imposed in the framework of compulsory military service. The Committee recalls in this respect that Article 2, paragraph 2(a), of Convention No. 29, which has also been ratified by Cuba, excludes from its scope only work exacted in virtue of compulsory military service laws for work of a purely military character. The Committee refers to paragraphs 25 and 49 of its 1979 General Survey on the abolition of forced labour, in which it indicates that work performed by young persons with a view to national development, even where such work is performed within the context of compulsory military service or as a replacement for such service, is not considered to be of a purely military character.

The Committee recalls that States which have ratified Convention No. 105 are obliged to suppress the use of forced labour as a method of using labour for purposes of economic development, and it hopes that the Government will indicate the measures that have been adopted or are envisaged to ensure compliance with the Convention.

Ecuador (ratification: 1962)

In previous comments, the Committee referred to Decree No. 105 of 7 June 1967, under which penalties of imprisonment of from two to five years can be imposed on anyone who foments or takes a leading part in a collective work stoppage. The penalty laid down in the same Decree for anyone who participates in such a stoppage, without fomenting or taking a leading part in it, is correctional imprisonment of from three months to one year. For the purposes of this provision, "there is a work stoppage when there is a collective stoppage of work or the imposition of a lockout except in the cases allowed by the law, the paralysing of means of communication and similar anti-social acts". Prison sentences involve compulsory labour by virtue of sections 55 and 66 of the Penal Code.

The Committee also referred to section 65 of the Maritime Police Code, under which crew members of an Ecuadorian vessel may not apply to disembark in a port other than the port of embarkation, except with the agreement of the master. It also provides that if a crew member deserts, he shall forfeit his pay and belongings to the vessel and that if he is captured he shall pay the cost of his arrest and be punished in accordance with the naval regulations in force.

The Committee expressed the hope that measures would be taken concerning these provisions in order to ensure the application of *Article 1(c) and (d) of the Convention*.

The Committee requested the Government to provide information on the application in practice of sections 103, 133, 134, 148, 153, 155 and 367 of the Penal Code, in order to enable it to ascertain the scope of these provisions in the light of *Article 1(a) and (c) of the Convention*. In this respect the Committee notes the statement made by the Government in its report that in practice sentences are not imposed for the offences set out in sections 130, 133, 134, 148, 153, 155 and 367 of the Penal Code.

The Committee noted with interest that several draft Decrees had been prepared with the assistance of representatives of the Director-General of the ILO in November 1989. Under these draft Decrees, Legislative Decree No. 105 is interpreted as being inapplicable to strikes or collective labour disputes; section 165 of the Maritime Police Code is repealed; sections 53, 54, 55 and 66 of the Penal Code and section 22 of the Code on the Application of Sentences and Social Rehabilitation must be interpreted in the sense that the work of convicted persons in detention and re-education centres has to be voluntary and the proceeds from this work shall accrue exclusively to the benefit of the convicted persons.

The Committee noted that on 25 March 1991, the Minister of Labour and Human Resources submitted the above draft texts to the President of the National Congress with a view to their inclusion on the agenda of the Congress.

The Committee expressed the hope that the above draft texts would be adopted rapidly in order to ensure that effect is given to the Convention with regard to the points raised.

The Committee notes that in its report the Government states once again that the above draft texts have not been dealt with by the National Congress and that the delay in dealing with these matters is not the responsibility of the Government, but of the Congress of the Republic, which is a public authority that acts in total independence of the Government.

The Committee deems it necessary to urge the Government once again to take the necessary steps to bring the national legislation into conformity with the Convention and trusts that the adoption of the Decrees drafted for this purpose will not be further delayed.

Egypt (ratification: 1958)

1. In its previous observations, the Committee referred to certain provisions of: the Penal Code; Act No. 156 of 1960 respecting the reorganization of the press; Act No. 430 of 31 August 1955 respecting film censorship; Act No. 32 of 12 February 1964 respecting associations and private foundations; the Public Meetings Act, 1923; the Meetings Act, 1914; and Act No. 40 of 1977 respecting political parties. It pointed out that the implementation of these provisions could affect the application of *Article 1(a) of the Convention*, which prohibits forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Committee notes the Government's indications in its report that various provisions of the Penal Code are not meant for punishing the adoption of any particular political opinion or the expression of political views on social and economic order, as long as the means used to do so are lawful. It also notes the Government's indication that Act No. 156 of 1960 respecting the reorganization of the press, as amended by Act No. 148, 1980 respecting press authority, is not concerned with ideological or political orientation of the press but with procedural aspects of the publication, and that persons holding opposing views may, on obtaining the appropriate authorization, expose their dissenting political, economic and social views without being prosecuted under the Act.

The Committee refers to paragraphs 133 and 138 of its 1979 General Survey on the abolition of forced or compulsory labour, in which it indicated that the Convention prohibits neither punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence, nor judicial imposition of certain restrictions on persons convicted of crimes of this kind; however, where authorities enjoy wide powers to ban publications in the public interest, subject to sanctions involving compulsory labour, this may lead to the imposition of compulsory labour as a punishment for expressing political or ideological views. The Committee hopes that the Government will re-examine the above-mentioned legislation with a view to ensuring the observance of the Convention and that it will soon indicate measures taken or envisaged to this end.

2. *Article 1(d)*. In its previous comments, the Committee referred to sections 124, 124A, 124C and 374 of the Penal Code, under which strikes by any public employee may be punished with imprisonment which may involve compulsory labour. The

Committee notes the Government's indication in its report that the conviction under the above-mentioned provisions does not involve any obligation to perform compulsory labour inside the prison. The Government also refers to section 24 of the Act concerning the organization of prisons which provides that prisoners who are detained temporarily or who have been convicted without obligation to perform prison labour can only work when they so wish. The Committee requests the Government to indicate any measures taken or contemplated to ensure that persons convicted under the above-mentioned provisions of the Penal Code are entitled to the status set out in section 24 of the Act concerning the organization of prisons. The Committee would also appreciate it if the Government would supply copies of any court decisions handed down under the above-mentioned provisions of the Penal Code.

3. The Committee previously expressed the hope that measures would be taken to ensure the observance of the Convention with regard to sections 13(5) and 14 of the Maintenance of Security, Order and Discipline (Merchant Navy) Act, under which penalties of imprisonment involving compulsory labour may be imposed on seamen who together commit repeated acts of insubordination. In this connection, the Committee recalled that Article 1(c) and (d) of the Convention prohibits the exaction of forced or compulsory labour as a means of labour discipline or as punishment for having participated in strikes. The Committee noted that, in order to remain outside the scope of the Convention, such punishment should be linked to acts that endanger or are likely to endanger the safety of the vessel or the life of persons.

The Committee notes the indication in the Government's report that the penalties imposed under the above-mentioned sections of the Act are aimed at preventing the exposure of the vessel, its crew, passengers and its cargo to danger, especially at sea or in a foreign country.

The Committee observes that while section 13, paragraphs (1) to (4) of the Act deal with breaches of discipline of an apparently serious nature defined with reasonable precision and do not give rise to any problem as to their compatibility with the Convention, it however appears that under section 13(5), read together with section 14, participation in strikes may be punished with imprisonment even in circumstances where the safety of the vessel or the life and health of persons are not endangered.

Noting the Government's earlier indication that the Committee's comments on this matter had already been transmitted to the competent authorities in 1985 with a view to amending these provisions, the Committee hopes that the Government will soon be in a position to indicate that the necessary measures have been taken to ensure the observance of the Convention.

4. The Committee recalls the Government's earlier indication that the legislation was being reviewed in order to bring it into conformity with international Conventions. The Committee trusts that the Government will soon be in a position to indicate progress made in its efforts to this end.

In this connection, the Committee hopes that the Government will supply full details also on a number of other points that are again dealt with in a request addressed directly to the Government.

El Salvador (ratification: 1958)

The Committee notes with interest the amendment to section 13 of the Labour Code which aligns the definition of forced labour on that of Convention No. 29 and this Convention.

1. *Article 1(a) of the Convention.* In previous comments, the Committee has referred to a series of provisions in the Penal Code that allow the imposition of penalties involving compulsory labour under section 49 of the Act concerning the organization of prisons and rehabilitation centres, for activities relating to the expression of political opinion or of opposition to the established system, which is contrary to the provisions of the Convention. The provisions in question are the following:

Section 376(2) and (3) on associations whose aims are teaching, disseminating or propagating doctrines that are anarchical or contrary to democracy. Section 377, under which imprisonment may be imposed on any person who promotes, establishes, organizes or directs sections or branches of foreign organizations or bodies advocating doctrines that are anarchical or contrary to democracy and on those taking part in such sections or branches. Section 378, punishing those who disseminate or propagate doctrines that are anarchical or contrary to democracy. Section 379, concerning the possession of subversive material (printed matter, tapes, photographs or films) for use in the dissemination of the doctrines mentioned in the preceding section. Section 380, concerning persons who cooperate in subversive propaganda and section 407, concerning participation in associations that exist for the purpose of committing an offence.

The Committee had taken note of the promulgation of Decree No. 50 of 24 February 1984 issuing the Act on the criminal procedure to be applied when constitutional guarantees are suspended. It noted that this Act lays down that persons charged with committing offences against the legal personality of the State shall be judged by military courts (sections 373 to 380), if constitutional guarantees are suspended. The offences laid down in the Code of Military Justice also come within the competence of these courts. The Committee pointed out that the Act concerning the organization of prisons did not provide for the exemption from prison labour of those sentenced for political offences.

The Committee requested the Government to provide information on the practical application of Decree No. 50, particularly in respect of the number of sentences pronounced by the military courts under the sections of the Penal Code which have been the subject of comments by the Committee for some years, and to supply a copy of any particularly relevant sentences.

The Committee notes that according to the information in the Government's report, a preliminary draft Act on Regulations for Penal and Rehabilitation Centres has been prepared in which penal labour is not imposed as a punitive extension of deprival of freedom but as an instrument to reform and rehabilitate the prisoner. The Committee notes that according to the Government's indication, section 108 of the preliminary draft lays down that sentenced prisoners have the duty to work in accordance with their physical and mental capacities. The Committee requests the Government to indicate whether the preliminary draft provides for the exemption from prison labour of those condemned for political offences and refers to the comments made in paragraphs 105 to 109 of the General Survey of 1979 on the abolition of forced labour, where it indicated that in most cases, labour imposed on persons as a consequence of a conviction in a court of law will have no relevance to the application of the Convention. On the other hand, any form of compulsory labour, including compulsory prison labour, falls within the scope of the Convention when it is imposed in one of the five cases set out in Article 1 of the Convention.

The Committee hopes that the necessary measures will be taken promptly to ensure observance of the Convention, either by removing the restrictions on the right of association and the right to express political opinions which are opposed to the established system, provided for in the above-mentioned provisions of the Penal Code, or by exempting from prison labour persons who are sentenced for breach of these provisions or, more generally, persons sentenced for political offences who have not committed acts of violence.

2. *Article 1(c) and (d).* In previous comments, the Committee has referred to section 291 of the Penal Code, under which penalties of imprisonment involving compulsory labour may be imposed on any person who, without creating a situation of public danger, prevents, hinders or paralyses the functioning of any class of transport or public utility service and on workers in a public utility undertaking or service who stop or suspend the service without just cause so as to disrupt its regular operation.

The Committee asked the Government to take the necessary measures to ensure that penalties involving compulsory labour cannot be imposed as a punishment for having participated in strikes or for breaches of labour discipline.

The Committee notes from the Government's report that there is no record of any sentence passed under this provision in the general register of offenders and that the only instance of such a sentence was the case of the members of the executive committee of the union at Hidroeléctrica del Río Lempa.

The Committee hopes that the Government will take the necessary steps to bring the national legislation into conformity with the Convention, either by repealing section 291 of the Penal Code which, according to the Government, is not applied in practice, or by exempting from prison labour persons sentenced for participating in strikes or for breaches of labour discipline.

Gabon (ratification: 1961)

Article 1(c) and (d) of the Convention. In the comments that it has been making for many years, the Committee has noted that under section 153, subsections 1, 4, 5 and 9 (read in conjunction with section 156), and sections 169, 186 and 188 of the Merchant Shipping Code (Act No. 10/63 of 12 January 1963) certain breaches of discipline by seafarers are punishable by imprisonment involving compulsory labour by virtue of Act No. 22/84 of 29 December 1984 regulating prison labour.

The Committee notes once again the Government's repeated statement in its report to the effect that the Merchant Shipping Code is currently being revised and that the Committee's comments will be taken into account. The Committee once again hopes that the draft texts that are under examination will ensure that sentences of imprisonment involving compulsory labour cannot be inflicted on seafarers for breaches of discipline that do not endanger the safety of the vessel or of persons, and that the Government will soon report that the legislation has been thus amended.

Ghana (ratification: 1958)

1. *Article 1(a), (c) and (d) of the Convention.* In comments made for a considerable number of years, the Committee has referred to provisions of the Criminal Code, the Newspaper Licensing Decree, 1973, the Merchant Shipping Act, 1963, the Protection of Property (Trade Disputes) Ordinance and the Industrial Relations Act, 1965, under which imprisonment (involving an obligation to perform labour) may be imposed as a punishment for non-observance of restrictions imposed by discretionary decision of the executive on the publication of newspapers and the carrying on of associations, for various breaches of discipline in the merchant marine and for participation in certain forms of strikes. The Committee requested the Government to adopt the necessary measures in regard to these provisions to ensure that no form of forced or compulsory labour (including compulsory prison labour) might be exacted in circumstances falling within Article 1(a), (c) or (d) of the Convention. The Committee

also repeatedly requested the Government to supply information on the practical application of a number of legislative provisions.

In its latest report, the Government states that there is no change, the National Advisory Committee on labour is discussing the comments of the Committee of Experts, but it is the wish of the Government to bring the legislation concerned into conformity with the Convention and to inform the ILO accordingly through its next report on the subject. The Committee takes due note of this indication and trusts that the necessary action will now be taken on the various points which are once more recalled in detail in a request addressed directly to the Government.

2. The Committee has noted the adoption of the Political Parties Law, 1992, the Emergency Powers Act, 1994, and the Public Order Act, 1994, which give rise to a certain number of questions under the Convention that are also set out in the request addressed directly to the Government.

[The Government is asked to report in detail in 1996.]

Guatemala (ratification: 1959)

Article 1(a), (c) and (d) of the Convention. For several years the Committee has been referring to the provisions of Legislative Decree No. 9 of 10 April 1963, Act for the Defence of Democratic Institutions (sections 2, 3, 4, 5, 6(2) and 7), and to sections 390(2), 396, 419 and 430 of the Penal Code, under which sentences of imprisonment involving, by virtue of section 47 of the Penal Code, the obligation to work, can be imposed as a punishment for expressing certain political opinions, as a measure of labour discipline or for participation in strikes, contrary to the provisions of the Convention.

Frequently the Government has refered to the predominance of international Conventions over domestic law and on other occasions it has indicated that the Committee's comments would be taken into account in the preparation of the new Penal Code which is in progress.

In its last report the Government indicated that the provisions contained in sections 4(1), (2), (4) and (7); 5(2), 13, 16, 18, 19 and 20 of Legislative Decree No. 9 Act for the Defence of Democratic Institutions have been repealed. The Committee requests to the Government to send it a copy of the laws repealed. The Committee notes, however, that sections 2, 3, 4(3), (5) and (6), 5(1) and 6(2) are still in force and observes that the partial derogation of the Act on Democratic Institutions has not resulted in completely eradicating the divergency between national legislation and the Convention.

The Committee recalls that, with a view to bringing the legislation into harmony with the Convention, measures can be taken either to redefine the punishable offences in order to ensure that no one can be punished for having expressed political opinions or indicated their ideological opposition to the established political, social or economic system, or by according a special status to prisoners convicted of certain offences, under which they are free from the obligation to perform compulsory prison labour, although they retain the right to work upon request.

The Committee notes that in relation to compulsory prison work the Government refers to the Act on the remission on sentences, indicating that the Penal Code effectively imposes the obligation to work but that the work is paid and leads to remission of the sentence.

The Committee also notes that in its last report the Government referred to a Governmental Agreement of 1984 (No. 975-84), Regulations for Detention Centres which, according to the Government, specifies the voluntary nature of work for persons convicted. The Committee requests the Government to send a copy of this Agreement.

The Committee observes that this matter has been a subject of comment for more than ten years and hopes that the Government will take the measures necessary to bring national legislation into conformity with the Convention and will report progress made to this end.

Guinea (ratification: 1951)

1. The Committee has been commenting for many years on a number of provisions which are contrary to the Convention. In previous comments, it noted the Government's statement to the effect that the legal texts in question had fallen into abeyance and are due to be revised or repealed as part of the programme for the complete revision by stages of all laws and regulations. The Government stated that the following texts would be covered by this procedure:

- Decree No. 416/PRG 22 October 1964, under which all persons between 16 and 25 years of age are placed in the service of the Organization for Work Centres of the Revolution, whose purpose is to overcome the technical and economic underdevelopment of the Republic;
- Act No. 45/AN/69 of 24 January 1969 respecting the disclosure of professional secrets and the unlawful communication of State and Party documents;
- Act No. 64/AN/66 of 21 September 1966 to issue the Code of Criminal Procedure;
- and all legislation relating to prison labour, the maintenance of law and order, the press and publications, meetings and associations, vagrancy and idlers and the discipline of seafarers.

The Committee noted that under sections 93 and 94 of the new Basic Act of 31 December 1990 (Decree No. 250/90) and under Act No. 2/91/001 of 1 August 1991, the Transitional National Recovery Council (CTRN) is empowered to enact legislation and take decisions with force of law. The Committee also noted the information provided by the Government in its report in 1992 to the effect that a revision of the laws and regulations had been commenced.

The Committee notes that in its latest report the Government reaffirms its political will to achieve the progressive harmonization of all the texts which are not in conformity with the Convention.

The Committee hopes that the Government will soon report the progress achieved in bringing the texts which have been the subject of its comments into conformity with the Convention, including sections 71(4), 110, 111, 176 and 177 of the Penal Code.

2. In its previous comments, the Committee referred to Ordinance No. 52 of 23 October 1959 laying down compulsory service, which may be of a military or non-military nature, for all male citizens.

The Government stated in previous reports that there is no compulsory military service, but that students of both sexes perform one year's military service which is devoted entirely to military tasks. The Government also stated that this service, which was compulsory, has become optional.

The Committee once again requests the Government to supply information on the provisions which have been adopted to this end and to supply a copy of the relevant texts, particularly any texts amending or repealing Ordinance No. 52 of 1959.

Ireland (ratification: 1958)

Article 1(c) and (d) of the Convention. In previous comments, the Committee noted that under sections 221 and 225(1)(b) and (c) of the Merchant Shipping Act, 1894, certain disciplinary offences by seamen are punishable with imprisonment (involving, under section 42 of the Rules for the Government of Prisons, 1947, and Obligation to Work), and under 222, 224 and 238 of the Merchant Shipping Act seamen absent without leave may be forcibly conveyed on board ship.

The Committee notes with interest the Government's indication in its latest report that provision is being made in a Bill currently under preparation by the Department of the Marine to repeal the provisions of the Merchant Shipping Acts of 1894 and 1906 which in the opinion of the Committee of Experts contravene the Forced Labour and Abolition of Forced Labour Conventions, and that it is hoped that this Bill will be enacted by the end of 1995. The Committee looks forward to learning of this enactment.

Liberia (ratification: 1962)

The Committee notes with regret that no report has been received from the Government. It must, therefore, repeat its previous observation on the following matters:

> *Article 1(a) of the Convention.* 1. The Committee noted the entry into force on 6 January 1986 of the new Constitution which guarantees fundamental rights, in particular the right to freedom of expression (article 15), the right to assemble and to associate (article 17), and provides for the free establishment of political parties, subject to their being registered (articles 77 and 79). The Committee noted that under article 95 of the new Constitution any enactment or rule of law in existence immediately before the coming into force of the Constitution, whether derived from the abrogated Constitution or from any other source shall, in so far as it is not inconsistent with any provision of the new Constitution, continue in force as if enacted, issued or made under the authority of the Constitution. The Committee referred to its previous comments in which it observed that prison sentences (involving, under Chapter 34, section 34-14, paragraph 1, of the Liberian Code of Laws, an obligation to work) might be imposed in circumstances falling within Article 1(a) of the Convention under section 52(1)(b) of the Penal Law (punishing certain forms of criticism of the Government) and section 216 of the Election Law (punishing participation in activities that seek to continue or revive certain political parties). The Committee requested the Government to state whether the above provisions continue in force and, if so, to indicate the measures taken or contemplated with a view to their repeal. The Committee also requested the Government to provide a copy of the Decree No. 88A of 1985 relating to criticism of the Government.
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> *Article 1(c) and (d).* 2. In earlier comments the Committee also referred to various provisions of the Maritime Law punishing breaches of labour discipline and of Decree No. 12 of 30 June 1980 prohibiting strikes. In the absence of a reply, the Committee again addressed a direct request on these matters to the Government.
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> 3. In its previous comments concerning Decree No. 12 of 30 June 1980 prohibiting strikes, the Committee noted the Government's statement in its report for 1982-83 that no penalty had been imposed for violation of the Decree and the statement by a Government representative to the Conference Committee in 1984 during the discussion of Convention No. 87 that the ban on strikes was due to be lifted on 26 July 1984.
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> The Committee observed that the Government's report contained no information in this regard. The Committee noted however from the conclusions adopted by the Committee on Freedom of Association concerning Case No. 1219 (in particular the 241st Report of that Committee) that the ban on strikes had not yet been lifted. The Committee requested the Government to provide information on any measures adopted or envisaged in this matter.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Mauritius (ratification: 1969)

The Committee notes the Government's reports, and comments made by the Mauritius Employers' Federation.

1. *Article 1(c) and (d) of the Convention.* In its previous comments the Committee noted that under section 183(1)(a), (b), (c) and (e), read together with section 184(1) of the Merchant Shipping Act, No. 28 of 1986 (which came into operation on 15 January 1991 by virtue of Proclamation No. 1 of 1991), certain breaches of discipline by seamen (such as desertion, neglect or refusal to join the ship, absence without leave, neglect of duty) are punishable by imprisonment (involving an obligation to perform labour), and that under section 183(1), (3) and (4) seamen who are not citizens of Mauritius, and who commit such offences, may be conveyed on board ship for the purpose of proceeding to sea. Referring to paragraphs 110 to 125 of its 1979 General Survey on the abolition of forced or compulsory labour, the Committee recalled that the Convention does not protect seamen responsible for breaches of labour discipline endangering the safety of the ship or the life or health of persons on board. However the scope of the above-mentioned provisions of the Merchant Shipping Act is not limited to such cases.

The Committee notes with interest the Government's indication in its latest report that necessary legislative measures will be taken to amend sections 183 and 184 of the Merchant Shipping Act in order to comply with Article 1(c) of the Convention. The Committee looks forward to this.

2. *Article 1(d).* In comments made for many years, the Committee has referred to sections 82 and 83 of the Industrial Relations Act, 1973, which empower the minister to refer any industrial dispute to compulsory arbitration, enforceable by penalties involving compulsory labour. The Committee has pointed out that these provisions are incompatible with Article 1(d) of the Convention.

In its latest report, the Government indicates that the Trade Unions and Labour Relations Bill, which is intended to replace the Industrial Relations Act, contains in Clause 99 a provision excluding forced or compulsory labour from penalties for participation in strikes. Following the introduction of the Bill in the National Assembly, the Government started consultations with employers' and workers' organizations so as to reach consensus on the provision of the Bill. Consultations are not yet completed. At the opening of the 2nd session of the First National Assembly on 7 April 1995, the Government undertook to review the legal provisions on industrial relations.

The Committee takes due note of these indications. It notes that under section 99, subsection (3) of the Bill, any person who commits the offence of calling, instituting, organizing, carrying on or participating in an unlawful strike shall, on conviction, be liable to imprisonment, and that subsection (4) specifies that for the purposes of subsection (3), "imprisonment" means imprisonment without hard labour. This provision in subsection (4), if adopted, would not, however, remove section 99 of the Bill from the scope of Article 1(d) of the Convention. The Committee notes that, under sections 30(3) and 31 of the Prisons Ordinance, special provisions shall be made in the prison regulations concerning the employment of prisoners sentenced to imprisonment without hard labour. Such prisoners are divided into two divisions; the first including persons who have failed to satisfy a judgment debt, who have shown contempt of court, or have been sentenced to imprisonment for non-payment of a fine, the second including all other prisoners. Prisoners of the second division "shall be kept steadily employed and not allowed to idle their time away" (section 42 of the Prison Regulations). Prisoners of the first division and prisoners sentenced to imprisonment for non-payment of a fine "shall be employed within the prison at some light work such as cleaning the prison, picking coir or oakum or breaking small macadam" (section 43 of the Regulations). Labour shall be optional for prisoners detained pending inquiry or committed for trial (section 27 of the Prisons Ordinance). It would thus appear that except for prisoners in such detention (section 27 above), all prisoners are obliged to perform prison labour.

The Committee refers to the explanations provided in paragraphs 106 to 109 of its 1979 General Survey on the abolition of forced labour, where it pointed out that the scope of the Convention is not restricted to hard labour and other particularly arduous or oppressive forms of labour, as distinct from ordinary prison labour. The Convention prohibits the use of "any form" of forced or compulsory labour, including compulsory prison labour, insofar as it is exacted in one of the five cases specified by the Convention.

The Committee therefore hopes that in the Trade Unions and Labour Relations Bill, either the penalty of imprisonment will be removed from section 99, or the freedom of workers to strike following normal procedures will be restored and any provisions for compulsory arbitration will be limited to industrial disputes in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population and/or, within the public service, be limited in scope to public servants exercising authority in the name of the State.

The Committee hopes that the Government will initiate the necessary action and that it will soon report on the measures taken.

Mozambique (ratification: 1977)

The Committee notes with satisfaction that Act No. 2/79 respecting the security of the State, under which prison sentences involving compulsory labour could be imposed in the circumstances covered by *Article 1(a) of the Convention*, has been repealed by Act No. 19/91.

A request concerning certain provisions of Act No. 19/91 is being addressed directly to the Government.

New Zealand (ratification: 1968)

The Committee previously referred to various provisions of the Shipping and Seamen Act, 1952, under which disciplinary offences may be punished with imprisonment (involving an obligation to perform labour) (sections 164 and 476) and seamen absent without leave may be forcibly returned on board ship (sections 157 to 161, 174, 175 and 472 to 475).

The Committee notes with interest the indication in the Government's report that the Maritime Transport Act, providing for the repeal of the Shipping and Seamen Act of 1952, was passed by Parliament in November 1994 and that the clauses in the Act dealing with seaborne labour contain no counterparts to the sections of the Shipping and Seamen Act referred to.

Noting also from section 1(2) of the Maritime Transport Act, 1994 that this Act shall come into force on a date to be appointed by Order in Council and that different dates may be so appointed for different provisions, the Committee hopes that the Government will soon be in a position to indicate that the third schedule to the Act, providing for the repeal of the Shipping and Seamen Act, 1952 and its various amendment Acts, has come into force.

Pakistan (ratification: 1960)

The Committee notes the Government's reports and the discussion which took place at the Conference Committee in 1992.

1. *Article 1(a) of the Convention.* In comments made for a number of years, the Committee has referred to certain provisions in the Security of Pakistan Act, 1952 (sections 10-13), the West Pakistan Press and Publications Ordinance, 1963 (sections 12, 36, 56, 59 and 23, 24, 27, 28 and 30) and the Political Parties Act, 1962 (sections 2 and 7) which give the authorities wide discretionary powers to prohibit the publication of views and to order the dissolution of associations, subject to penalties of imprisonment which may involve compulsory labour.

The Committee has taken note of Presidential Ordinance No. III of 1990 to regulate matters relating to publications and printing presses promulgated under article 89 of the Constitution. The Committee notes that under section 55, the West Pakistan Press and Publications Ordinance No. XXX of 1963 and the Registration of Printing Press and Publications Ordinance No. XIII of 1989 were repealed. The Committee observes that an Ordinance promulgated under article 89(2) of the Constitution is required to be laid before the National Assembly and shall be considered repealed at the expiration of four months from its promulgation if not approved by the Assembly. The Committee notes the indication in the Government's report covering the period ending 30 June 1994 that Ordinance No. III of 1990 had been placed before the National Assembly, but that it could not be passed and it was now being submitted again to the National Assembly. The Committee requests the Government to provide information on any action by the National Assembly in regard to Ordinance No. III of 1990 and to communicate the text of any law adopted by the Assembly in relation to publications and printing presses.

The Committee notes the Government's indication concerning the Security of Pakistan Act, 1953, and the Political Parties Act, 1962, that the punishment under these Acts would be inflicted after fair trial by a court of law and the accused would be given full opportunity to defend and prove his innocence.

The Committee refers again to the explanations provided in paragraphs 102 to 109 of its 1979 General Survey on the abolition of forced labour, where it indicated that compulsory labour in any form, including compulsory prison labour, falls within the scope of the Convention in so far as it is exacted in one of the five cases specified in Article 1 of the Convention. It is not merely the requirement of due process of law but rather the substance of penal provisions aimed at the punishment of political dissent with sanctions involving compulsory labour which is covered by Article 1(a) of the Convention.

The Committee hopes that the necessary measures will soon be taken to bring the above-mentioned provisions on security and political parties into conformity with the Convention and that the Government will report on progress achieved.

Pending action to amend these provisions, the Committee once more requests the Government to supply information on their practical application, including the number of convictions and copies of court decisions defining or illustrating the scope of the legislation.

The Committee also once more requests the Government to supply an updated copy of the provisions of the Jail Code governing prison labour.

2. *Article 1(c).* In comments made for many years, the Committee has referred to sections 54 and 55 of the Industrial Relations Ordinance (No. XXIII of 1969) under which whoever commits any breach of any term of any settlement, award or decision or fails to implement any such term may be punished with imprisonment which may

involve compulsory labour. The Committee expressed the hope that the Government would take the necessary measures to bring the Industrial Relations Ordinance into conformity with the Convention, by repealing sections 54 and 55 of the Ordinance or by repealing the penalties which may involve compulsory labour, or by limiting their scope to circumstances endangering the life, personal safety or health of the population.

The Government has previously indicated that a Bill to amend the Industrial Relations Ordinance has been presented to the National Assembly and that it was proposed to remove from the provisions of sections 54 and 55 the element of compulsory labour by replacing imprisonment with "simple imprisonment". This was confirmed by the Government representative to the Conference Committee in 1990. The Government has since indicated in its reports, the latest one of which was received in May 1995, that the proposed amendment was under active consideration. The Committee expresses the firm hope that the Government will soon be in a position to indicate that the Industrial Relations Ordinance has been brought into conformity with the Convention.

3. *Article 1(c) and (d).* The Committee notes that once more the Government assures that sections 100 to 103 of the Merchant Shipping Act, under which various breaches of labour discipline by seamen may be punished with compulsory labour, will be amended. The Committee hopes that the amendments will finally be adopted so as to remove the penalties involving compulsory labour from sections 100 and 100(ii), (iii) and (v) of the Merchant Shipping Act (or limit their scope to offenses committed in circumstances endangering the safety of the ship or the life, personal safety or health of persons) and to repeal the provisions of sections 101 and 102 of the Act under which seamen may be forcibly returned on board ship to perform their duties. The Committee requests the Government to provide information on the action taken in this regard.

4. *Article 1(d).* Referring also to Part III of its observation on Pakistan under the Forced Labour Convention, 1930 (No. 29), the Committee notes that under the Pakistan Essential Services (Maintenance) Act, 1952 and corresponding provincial Acts, which apply permanently to employment of whatever nature under the federal Government and provincial governments and any agency set up by the latter or a local authority and, inter alia, to any service related to transport, and which may in addition be applied by notification, inter alia, to employment in any educational autonomous body, employees are prohibited from striking, subject to penalties of imprisonment that may involve compulsory labour. The Committee must point out that the Convention in Article 1(d) prohibits the imposition of sanctions involving compulsory labour as a punishment for having participated in strikes. While the Committee has considered that Article 1(d) would not apply where the sanction is not imposed for the participation in a strike as such but for the fact of endangering the life, personal safety or health of persons through a strike in a truly essential service, the scope of the Essential Services Acts is not limited to such services. The Committee accordingly hopes that these Acts will be either repealed or amended so as to ensure the observance of the Convention, and that the Government will report on the action taken to this effect.

5. *Article 1(e).* In previous comments, the Committee has referred to sections 298B(1) and (2) and 298C of the Penal Code, inserted by the Anti-Islamic Activities of Quadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, No. XX of 1984, under which any person of these groups who uses Islamic epithets, nomenclature and titles shall be punished with imprisonment of either description for a term which may extend to three years.

The Committee notes the Government's repeated statement in its reports that religious discrimination does not exist and is forbidden under the Constitution and the laws of Pakistan and any law, custom or usage having the force of law, so far as it is inconsistent with the rights conferred by the Constitution, is void to the extent of the inconsistency.

According to the Government, religious freedom exists as long as the feelings of another religious community are not injured and anyone, regardless of his religious conviction, will be punished for professing his religion in a way that injures the feelings of another community. The provisions of the Penal Code referred to were drafted with a view to ensuring peace and tranquillity, particularly in places of worship. The Committee also notes that the Government reiterates its earlier stand that forced labour as a result of religious discrimination does not exist in Pakistan, that all minorities enjoy all fundamental rights and that courts are free to uphold and safeguard the rights of minorities.

The Committee had taken note of the report presented to the United Nations Human Rights Commission in 1991 by the Special Rapporteur on the Application of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Conviction (document E/CN.4/1990/46 of 12 January 1990) referring to allegations according to which proceedings were instituted, on the basis of sections 298B and C of the Penal Code, in the districts of Guranwala, Shekhupura, Tharparkar and Attock against a number of persons having used specific greetings.

The Committee notes from the report by the Special Rapporteur presented to the Human Rights Commission in 1992 (document E/CN.4/1992/52 of 18 December 1991) the allegations that nine persons were sentenced to two years' imprisonment for acting against Ordinance XX of 1984 in April 1990, that another person was sentenced to one year of imprisonment in 1988 for wearing a badge and that the sentence was upheld by the Court of Appeal. It is also alleged that the Ahmadi daily newspaper has been banned during the past four years and its editor, publisher and printer have been indicted; Ahmadi books and publications have been banned and confiscated. Allegations also refer to the sentencing under section 298B and 298C of the Penal Code of two Ahmadis to several years' imprisonment and a fine of 30,000 rupees (in the case of failure to pay the fine, imprisonment would be extended by 18 months).

The Committee notes the Government's indication in its latest report that the report of the Special Rapporteur is not based on facts. The Committee requests the Government to provide factual information on the practical application of the provisions of sections 298B and 298C of the Penal Code including the number of persons convicted thereunder and copies of court decisions made thereunder in particular in the proceedings mentioned by the Special Rapporteur. The Government is also requested to supply copies of any court ruling that sections 298B and 298C are incompatible with constitutional requirements.

Paraguay (ratification: 1968)

Article 1(a). In comments made for many years the Committee has referred to section 39 of Act No. 210 of 1970 on the prison system which is contrary to this provision of the Convention in that it lays down that "work shall be compulsory for the inmates" while the same Act (section 10) specifies that the inmates are not only convicted persons but also those who are subject to security measures in a penal establishment.

The Committee notes the Bill prepared in 1977 which amends section 39 of Act No. 210 under which detainees who have not been convicted and those convicted for political offences which did not involve acts of violence are exempt from the obligation to work.

The Committee notes that according to the Government's report, this Bill has not been adopted to date. The Committee hopes that the Government will take the necessary measures without delay to ensure respect for the Convention in this matter and that it will send with its next report information about the texts formulated for this purpose.

Philippines (ratification: 1960)

Further to its earlier comments the Committee notes with satisfaction that Executive Order No. 29 of 16 July 1986 repealed Presidential Decree No. 33, which had penalized printing, possession and circulation of certain leaflets, handbills and propaganda materials and the inscribing or designing of graffiti.

Article 1(d) of the Convention. In its previous comments the Committee noted that in case of a planned or current strike in an industry considered indispensable to national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify it for compulsory arbitration. Furthermore, the President may determine the industries indispensable in his opinion to the national interest and assume jurisdiction over a labour dispute (section 263(g) of the Labor Code). The declaration of a strike after assumption of jurisdiction or submission to compulsory arbitration is prohibited (section 264).

Participation in an illegal strike is punishable by imprisonment (involving under section 1727 of the Revised Administrative Code an obligation to perform labour) of up to three years (section 272(a) of the Labor Code). The revised Penal Code also lays down sanctions of imprisonment (section 146).

Recalling paragraph 123 of its 1979 General Survey on the abolition of forced or compulsory labour, the Committee indicated, in its previous comment, that any compulsory arbitration enforceable with penalties, involving compulsory labour, must be limited to services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee notes with interest from the Government's report that amendments to section 263(g) of the Labor Code have been proposed in Senate Bill No. 1757 which seeks to limit the situation only to disputes affecting industries performing essential services and that the Bill has been filed with Congress.

As to the scope of the services regarded as essential services in light of the application of Conventions Nos. 105 and 87, the Committee wishes to refer to its comment made in 1995 under Convention No. 87.

The Committee hopes that the Government will soon indicate the progress made in bringing the legislation into conformity with the Convention.

Senegal (ratification: 1961)

Article 1(c) and (d) of the Convention. In its previous comments, the Committee noted that under sections 223 and 243 of the Merchant Shipping Code, seafarers are punished for breaches of labour discipline (absence without leave from the vessel, refusal to obey after formal order) with sentences of imprisonment involving compulsory labour under section 40 of the Penal Code.

The Committee notes that in its report the Government reiterates its previous indications to the effect that the authorities have decided to bring the provisions in question into conformity with the Convention during the revision of the Merchant Shipping Code and that, in practice, no sentence of imprisonment has been passed on a seafarer committing a breach of labour discipline.

The Committee requests the Government to supply information on any progress achieved in the adoption of the necessary amendments to bring the Merchant Shipping Code into conformity with the Convention.

The Committee notes that the draft Labour Code in one of its provisions (section L4) prohibits forced labour in all its forms.

United Republic of Tanzania (ratification: 1962)

The Committee notes with regret that no report has been received from the Government. It must, therefore, repeat its previous observation on the following points:

> Further to its previous comments the Committee has noted the discussion which took place in the Conference Committee in 1992.
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> The Committee has noted the Government's statement in its report received in 1992 that ministerial consultations aimed at amending a number of provisions contained in the Penal Code, the Newspapers Act, the Merchant Shipping Act and the Industrial Court Act are continuing, bearing in mind the political situation, following the adoption of the ninth constitutional amendment. The Constitution, as amended, allows for multi-party politics; and the Political Parties Act 1992 provides specifically for formation and registration of political parties.
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> The Committee hopes that the draft legislation under consideration will provide for the repeal of all provisions which are incompatible with the Convention and that the Government will indicate the action taken in this regard. The Committee also hopes that the Government will provide information on the amendment or repeal of the provisions of different enactments to which it refers in its comments under Convention No. 29 and which are in contradiction with Article 1(b) of Convention No. 105.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Thailand (ratification: 1969)

The Committee notes the report provided by the Government.

1. *Article 1(a) of the Convention.* The Committee noted previously that penalties of imprisonment may be imposed under sections 4, 5, 6 and 8 of the Anti-Communist Activities Act B.E. 2495 (1952) on anyone who engages in communist activities, or who conducts propaganda or makes any preparation with a view to carrying on communist activities, who is a member of any communist organization, or who attends any communist meeting unless he can prove that he did so in ignorance of its nature and object. Similarly, under sections 9, 12 and 13 to 17 of the same Act, inserted by the Anti-Communist Activities Act (No. 2) B.E. 2512 (1969), penalties of imprisonment may be imposed on whoever assists any communist organization or member of such organization in a variety of ways, who propagates communist ideology or principles leading to the approval of such ideology, or who contravenes restrictions imposed by the Government on movements, activities and liberties of persons in any area classified as a communist infiltration area.

The Committee notes the indication in the Government's report that section 35 of the Thai Constitution (B.E. 2538 (1995)) provides that exception from the prohibition of compulsory labour can only be made by law with respect to emergency, state of war and martial law.

The Committee observes that the provisions of the above-mentioned Act do not appear to fall under any of the exceptions allowed by the 1995 Constitution. Moreover, they may be used as a means of political coercion or as a punishment for holding or expressing, even peacefully, certain political views or views ideologically opposed to the established political, social or economic system, and are accordingly incompatible with Article 1(a) of the Convention in so far as the penalties provided involve compulsory labour.

The Committee again expresses the hope that the necessary measures will be taken with regard to the Anti-Communist Activities Act to ensure the observance of the Convention, and that the Government will report on the action taken.

2. *Article 1(c).* In comments made since 1976, the Committee has noted that sections 5, 6, and 7 of the Act for the prevention of desertion or undue absence from merchant ships, B.E. 2466 (1923), provide for the forcible conveyance of seamen on board ship to perform their duties.

In 1990, the Committee noted the Government's indication in its report for the period ending 30 June 1988 that "the Act for the prevention of desertion or undue absence from merchant ships, B.E. 2466 (1923), has not been changed or repealed at present", but that a committee had been established for considering seamen's legislation, and that any alterations to this legislation would be reported to the ILO as soon as possible. The Committee noted the Government's indication in its report for the period ending 30 June 1994, made after consideration with the Juridical Council, that the Act previously mentioned should be the Act of prevention of crews absent from their duty on merchant ships, B.E. 2465 (1922) which is being enforced. The Government added that the provisions would however probably be useless at present because it was not to be enforced for a very long time.

The Committee hopes that in the circumstances the Government will be in a position to take the necessary measures to have sections 5 to 7 of the Act repealed, and that it will soon report on the action taken.

3. The Committee noted previously that under sections 131 and 133 of the Labour Relations Act, B.E. 2518 (1975), penalties of imprisonment (involving compulsory labour) may be imposed on any employee who, even individually, violates or fails to comply with an agreement on terms of employment or a decision on a labour dispute under sections 18, paragraph (2), 22, paragraph (2), 23 to 25, 29, paragraph (4) or 35(4) of the Labour Relations Act.

The Committee notes the indication in the Government's reply to its previous observation that these provisions are necessary to make both employers and workers abide by agreements on terms of employment or arbitration awards and that they do not provide for compulsory labour.

The Committee earlier indicated that legal provisions punishing a breach of labour discipline with compulsory labour were outside the scope of the Convention if they dealt with essential services or, in other words, with situations endangering the life, the personal safety or the health of the whole or part of the population.

In this regard, the Committee has previously noted that sections 131 to 133 of the Labour Relations Act were incompatible with the Convention in so far as the scope of sanctions involving compulsory prison labour is not limited to acts and omissions that impair or are liable to endanger the operation of essential services, or which are committed either in the exercise of functions that are essential to safety or in circumstances where life or health are in danger.

The Committee notes the indication in the Government's report that the clear distinction between essential and non-essential services has not yet been made. The Committee again expresses the hope that the Government will indicate the action taken or contemplated in this regard to ensure the observance of the Convention.

4. *Article 1(d).* In its previous comments, the Committee noted that penalties of imprisonment may be imposed for participation in strikes under the following provisions of the Labour Relations Act:

(a) section 140 read together with section 35(2), if the Minister orders the strikers to return to work as usual, being of the opinion that the strike may cause serious damage to the national economy or may cause hardship to the public or may affect national security or may be contrary to public order;

(b) section 139 read together with section 34(4), (5) and (6), if the party required to comply with an arbitrator's award under section 25 has complied therewith, if the matter is awaiting the decision of the Labour Relations Committee or a decision has been given by the Minister under section 23(1), (2), (6) or (8) or by the Committee under section 24, or if the matter is awaiting the award of labour disputes arbitrators appointed under section 25.

The Committee notes the Government's indication in its report that the above-mentioned provisions of the Labour Relations Act do not compel workers to resume their work and that workers are free to leave the employment if they choose to do so. The Committee wishes to point out that the compulsory labour referred to in Article 1(d) of the Convention covers the punishment for having participated in strikes and not the work which is stopped by the strikes. The Committee notes that under the above-mentioned provisions of the Act, penalties of imprisonment involving compulsory labour may be imposed for participation in strikes which are not excluded from the scope of the Convention. The Committee refers to paragraphs 122 to 132 of its 1979 General Survey on the abolition of forced or compulsory labour in which it indicated strikes which are not covered by the Convention.

Recalling the Government's indication in its report ending June 1988 that the powers conferred under section 35 of the Act have been seldom used, the Committee hopes that the Government will take the necessary measures to have the above-mentioned provisions amended.

5. The Committee previously noted that under section 117 of the Criminal Code participation in any strike with the purpose of changing the laws of the State, coercing the Government or intimidating the people was punishable with imprisonment.

The Committee again refers to the explanations provided in paragraph 128 of its 1979 General Survey on the abolition of forced or compulsory labour, where it indicated that while the prohibition of purely political strikes lies outside the scope of the Convention, nevertheless, in so far as restrictions on the right to engage in such strikes are accompanied by penalties involving compulsory work, these restrictions should apply neither to matters likely to be resolved through the signing of a collective agreement nor to matters of a broader economic and social nature affecting the occupational interests of workers.

The Committee again expresses the hope that the necessary action will be taken to remove all strikes pursuing aims of an economic and social nature that affect the workers' occupational interests from the scope of sanctions under section 117 of the Criminal Code and that pending such action, the Government will continue to supply information on the application in practice of section 117.

6. The Committee noted previously that section 19 of the State Enterprise Labour Relations Act provided that workers of state enterprises shall not in any case stage a strike or undertake any activity in the nature of a strike. Under section 45, paragraph 1, of the Act, a person who violates this prohibition may be punished by imprisonment

for a term of up to one year; this penalty is doubled in the case of a person who "incites, or aids or abets the commission" of the offence under paragraph 1.

Referring to the explanations provided in paragraph 123 of its 1979 General Survey on the abolition of forced or compulsory labour, the Committee recalled that the imposition of penalties of imprisonment involving compulsory labour on striking employees would be compatible with the Convention in the case of essential services in the strict sense of the term, i.e. services whose interruption would endanger the life, personal safety or health of the whole or part of the population, because there the punishment is not aimed at the strike as such but at the endangering of life, personal safety or health. The distinction between essential and non-essential services is a functional one and does not depend on private or state ownership of the enterprises concerned. A blanket prohibition of strikes in all state-owned enterprises, if enforced with penalties involving compulsory labour, is incompatible with the Convention.

The Committee notes the Government's indication in its report that a clear definition of essential services is yet to be drawn and pending such definition the Government would be compelled to focus more on the safeguarding of the public interest. The Committee also notes the indication that the Government policies of both the previous and the current Prime Ministers have remained unchanged, that is, to prohibit strikes in public utilities and services.

The Committee hopes that the Government will reconsider the issue with a view to bringing the relevant legislation into conformity with the Convention, and that it will supply full information on the action taken.

Trinidad and Tobago (ratification: 1963)

Article 1(c) and (d) of the Convention. 1. In previous comments, the Committee noted that the provisions of section 157(1)(a), (b) and (e) of the Shipping Act, 1987 provide for penalties of imprisonment (involving, under rules 255 and 269(3) of the Prisons Rules, compulsory labour) for disobeying lawful commands and are substantially identical to provisions of the Merchant Shipping Act, 1894, which had been the subject of comments by the Committee for many years. While subsection (2) of section 157 of the Shipping Act, 1987 excludes the application of subsection (1) to a lawful strike after the ship has been secured in good safety to the satisfaction of the master and the port authority at a port in Trinidad and Tobago, subsection (1) may still be applied to strikes outside Trinidad and Tobago as well as to breaches of labour disciplines which do not endanger the safety of the ship or the life or limb of persons (endangering life or ship is the subject of a specific provision in section 156, which has no bearing on the Convention). Similarly, section 158 of the Shipping Act, 1987 follows section 221 of the 1894 Act in punishing desertion and absence without leave with penalties of imprisonment involving compulsory labour. Finally, section 162 of the 1987 Act still provides for the apprehending and forcible conveyance of deserters on board ship upon the request of the master of the ship, regarding both seamen deserting in Trinidad and Tobago from a ship registered abroad and, by way of reciprocity, seamen deserting in a foreign State from a ship registered in Trinidad and Tobago.

The Committee noted the indication in the Government's report for 1989-91 that the above-mentioned provisions were being examined in consultation with the Minister of Works, Infrastructure and Decentralization entrusted with the administration and implementation of the Shipping Act, 1987, as well as with the Solicitor-General.

The Committee notes from the Government's latest report that additional measures to bring sections 157(1)(a), (b) and (e), 158 and 162 of the Shipping Act, 1987 into conformity with the Convention are still to be examined in consultation with the Ministry of Works and Transport entrusted with the administration and implementation of the Shipping Act, 1987, as well as with the Solicitor-General. The Committee hopes that the necessary action will now be taken and that the Government will soon report on the proposed amendments.

2. In its previous comments the Committee referred to section 8(1) of the Trade Disputes and Protection of Property Ordinance, under which penalties involving compulsory labour may be imposed for breach of contract by persons employed in certain public services where the probable consequences would be to deprive the inhabitants, wholly or to a great extent, of such services. The Committee observed that certain of the services mentioned in section 8(1) of the Ordinance (electricity, water, health, sanitary or medical services) are strictly essential because their interruption could endanger the life, personal safety or health of the whole or part of the population, while in others (namely, railway, tramway, ship or other transport services) only a few posts essential to security might fall under the same category. The Government indicated that no penalties involving compulsory labour had been imposed in the country for the purposes enumerated.

In its latest report the Government once more indicates that the Committee's observations with regard to the Ordinance have again been noted and will be given full consideration. The Committee hopes that accordingly appropriate amendments will now be prepared and that the Government will soon report on the action taken to bring section 8(1) of the Ordinance into conformity with the Convention.

3. *Article 1(d).* The Committee noted in previous comments that under section 69(1)(d) and (2) of the Industrial Relations Act, Chapter 88.01, teachers in the public service are prohibited from taking part in a strike, subject to penalties of imprisonment involving the obligation to work. The Committee noted the Government's indication in its report for 1989-91 that the work of the Committee which was appointed to review all the Service Acts and their relevant regulations was still continuing. The Committee also noted that draft regulations to provide for a Code of Conduct for civil servants and for teachers had been prepared.

In its latest report, the Government again indicates that the work of the Committee which was appointed to review all the Service Acts and their relevant regulations is still continuing. The Committee hopes that the necessary action to bring section 69(1)(d) and (2) of the Industrial Relations Act into conformity with the Convention will now be taken and that the Government will report on the proposed amendments.

[The Government is asked to report in detail in 1996].

Turkey (ratification: 1961)

Further to its previous observation on the application of the Convention by Turkey, the Committee has taken note of the Government's report for the period 1 July 1990 to 30 June 1994 and the appended comments of the Confederation of Turkish Trade Unions and the Confederation of Turkish Employers' Associations, received 20 March 1995, as well as the Government's report for the period 1.7.1994 to 30.6.1995, received 24 November 1995, to which again comments by the Confederation of Turkish Trade Unions, dated 6 July 1995, and by the Confederation of Turkish Employers' Associations were appended, both in the Turkish language. The Committee has deferred consideration of the matter pending translation of the comments received 24 November 1995.

Uganda (ratification: 1963)

The Committee notes the information supplied by the Government in its reports in reply to the Committee's previous observation on the application of the Convention.

1. *Article 1(a) of the Convention.* In previous comments the Committee noted that the Public Order and Security Act, No. 20 of 1967, empowering the executive to restrict, independently of the commission of any offence, an individual's association or communication with others, subject to penalties involving compulsory labour appeared to have been repealed; the Committee requested the Government to indicate whether this Act had actually been repealed and to supply a copy of any text adopted to this effect. The Committee had also referred to measures to be taken to repeal or amend section 21A of the Newspaper and Publications Act (inserted by Decree No. 35 of 1972) under which the publication of any newspaper may be prohibited if the competent minister considers it to be in the public interest to do so and which is enforceable with imprisonment (involving an obligation to perform labour).

The Committee notes the Government's indication that the Public Order and Security Act is no longer being used in practice to detain people, but that the legislative revision is still going on, and that the Government will provide a report as soon as the revisions are approved by Parliament. The Committee further notes the Government's indication that section 21A of the Newspaper and Publications Act has not been invoked to prohibit publication of any newspaper in the public interest; it notes with interest that the Press Media Bill 1995 which is currently being debated in Parliament is to repeal the Newspaper and Publications Act as well as the Press Censorship and Convention Act. The Committee hopes that the Government will soon be in a position to indicate that the Newspaper and Publications Act, as well as the Public Order and Security Act, whose repeal was reported since 1981 as being under way, have actually been repealed.

2. In its previous comments, the Committee noted that sections 54(2)(c), 55, 56 and 56A of the Penal Code empower the competent minister to declare any combination of two or more persons to be an unlawful society (a power exercised in respect of various political, religious and student organizations by Statutory Instruments Nos. 12 of 1968, 153 of 1972 and 63 of 1973) and thus render any speech, publication or activity on behalf of or in support of any such association illegal and punishable with imprisonment (involving an obligation to perform labour). The Committee also noted that a number of orders made under these provisions between 1975 and 1977 were revoked by the Penal Code (Unlawful Society) (Revocation) Order, 1979, but that sections 54(2)(c), 55, 56, and 56A of the Penal Code appeared to remain in force and that by Statutory Instrument No. 15 of 1991 a society was declared unlawful under section 54(2) of the Penal Code. The Committee requested the Government to provide details on this case and any other cases of prohibition as well as on the measures adopted regarding the above provisions to ensure the observance of the Convention.

The Committee notes that no such details have been provided. It notes the Government's indication that sections 54(2)(c), 55 and 56A of the Penal Code are still in force, but that sentences or penalties under the Code provide for imprisonment only and do not involve an obligation to perform compulsory labour.

The Committee recalls that under section 46 of the Prisons Ordinance, 1958, every sentence of imprisonment passed upon any criminal prisoner shall subject the prisoner during the term of such sentence to be imprisoned and to work at such labour as may be directed by the officer in charge under the general approval of the Commissioner of Prisons. The Committee previously pointed out that the Convention does not prevent work from being made available to prisoners at their own request, to be performed on a voluntary basis. However, under the above-mentioned provisions, an obligation to perform labour is laid down as an essential incident of punishment in the specific circumstances enumerated in Article 1(a) of the Convention. Noting also the Government's indication in its reports that public rallies and campaigns remain suspended and that any illegal assembly is handled as a criminal offence under section 54(2) of the Penal Code, which provides for a penalty of imprisonment of up to three years, the Committee again expresses the hope that the necessary action will be taken regarding these provisions to ensure the observance of the Convention, and that the Government will soon report measures adopted to this end.

3. *Article 1(c).* In previous comments the Committee noted that, under section 16(1)(a) of the Trade Disputes (Arbitration and Settlement) Act, 1964, workers employed in "essential services" may be prohibited from terminating their contract of service, even by notice. The Committee notes the Government's statement in its report that the section in question concerns collective withdrawal of contract by a number of workmen as a result of a trade dispute and does not stop an individual who has fulfilled his/her obligations and given due notice to terminate his/her services in a normal manner, to do so. The Committee recalls, however, that, under section 16(1)(a) of the Act, any workman in an essential service who wilfully *terminates* his contract of service, knowing or having reasonable cause to believe that the probable consequences of his doing so, *even alone*, will be to deprive the public or any section of the public of that service or to diminish their enjoyment thereof, is subject to penal sanctions. The provisions for termination by notice contained in section 17 apply only "where any collective withdrawal of labour from an essential service is contemplated", and thus would appear not to cover the case of termination by individual workers in the absence of a collective dispute. The Committee accordingly hopes that section 16 of the Act will be suitably amended to ensure that individual workers in the services concerned may duly terminate their contracts by notice.

4. *Article 1(d).* In previous comments the Committee noted that, by virtue of sections 16, 17 and 20A of the Trade Disputes (Arbitration and Settlement) Act, 1964, strikes may be prohibited in various services that, while including those generally recognized as essential ones, also extend to other services, interruption of which would not necessarily endanger the life, personal safety or health of the whole or part of the population, and that contravention of these prohibitions may be punished with imprisonment (involving, as previously noted, an obligation to perform work). The Committee noted that the process to review the law was still under way.

In its latest report, the Government indicates that the tripartite labour legislation review committee discussed sections 16(a) and 17 of the Trade Disputes (Arbitration and Settlement) Act 1964 in the light of their implicit denial of the freedom of association to those individuals working in "essential services" in the interest of protecting the public against danger to their lives. Although the sections exist in the law, in reality, strikes have occurred in essential services and no one had ever been victimized because of engaging in strikes in essential services; the Government adds that nowhere is a penalty involving compulsory labour mentioned under these sections. Section 20 of the Act empowering the Minister to certify essential services in case of doubt has also been at the centre of the discussions for the law revision committee, which took into account the fears expressed by the Committee, in particular, the overstretching of the category of essential services. The Government concludes that it is not possible to provide a definitive response to the Committee's observations until the law revision process is finalized.

The Committee takes due note of these indications. Concerning the compulsory labour following from a sentence of imprisonment, the Committee refers to the explanations in point 2 above. The Committee hopes that the law revision process that has been referred to by the Government since 1979 will soon enable the Government to indicate measures taken to bring sections 16, 17 and 20A of the Trade Disputes (Arbitration and Settlement) Act, 1964, into conformity with the Convention, which prohibits the imposition of sanctions involving compulsory labour as a punishment for having participated in a strike.

United Kingdom (ratification: 1957)

Further to its previous comments, the Committee notes with satisfaction that the Merchant Shipping Act, 1988 (Commencement No. 4) Order 1994, has brought into force the provision of the 1988 Act repealing section 89 of the Merchant Shipping Act, 1970, which provided for the forcible return of deserting seamen on board ship under reciprocal arrangements with other countries.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Angola, Bangladesh, Barbados, Benin, Bolivia, Burundi, Comoros, Costa Rica, Cuba, Dominican Republic, Egypt, El Salvador, Gabon, Ghana, Italy, Liberia, Mozambique, Nicaragua, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Saudi Arabia, Senegal, Seychelles, Spain, United Republic of Tanzania, Thailand, United Kingdom*.

Information supplied by *Uruguay* in answer to a direct request has been noted by the Committee.

Convention No. 106: Weekly Rest (Commerce and Offices), 1957

Bolivia (ratification: 1973)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In its previous observations on the need to take measures to give full effect to *Article 8, paragraph 3, of the Convention* concerning compensatory rest, the Committee referred to the Government's indication that the General Labour Law was in the process of revision with the technical assistance of the ILO. The Government indicates in its last report that there have been no changes with regard to the application of the provisions of the Convention. The Committee once again trusts that the new legislation will be adopted as soon as possible in order to ensure full compliance with the Convention. It also hopes that the Government will soon indicate the concrete steps taken in this regard and supply copies of the relevant legislative text.
>
> The Committee again expresses the hope that the Government will make every effort to take the necessary action in the very near future.

Egypt (ratification: 1958)

In its previous comments the Committee noted that the Labour Code of 1981 does not ensure that compensatory rest is granted to persons working on the weekly rest day, as required by *Article 8, paragraph 3, of the Convention*, under which compensatory rest must be granted, regardless of any monetary remuneration, when temporary exemptions are made for reasons enumerated in paragraph 1 of the same Article of the Convention. The Committee notes the Government's information in its report that the tripartite committee entrusted with the preparation of the draft consolidated Labour Code, has been informed of the Committee's comments so as to take them into consideration. The Committee hopes that the Government will soon be in a position to provide information on the provisions adopted to bring legislation into conformity with the Convention.

Syrian Arab Republic (ratification: 1958)

Article 8, paragraph 3, of the Convention. In its previous observation, the Committee noted that since 1964 it has been pointing out to the Government the need to adopt measures in order to guarantee compensatory rest to workers who, under exceptions provided for in section 120 of the Labour Code, work on the weekly rest day. It also referred to the Government's indication that a new draft text giving effect to this provision of the Convention had been submitted to the Council of Ministers and was under examination with a view to its enactment. In its latest report, the Government states that it has requested the Minister of Presidential Affairs for information on the status of this draft legislation. The Committee hopes that the new legislation will soon be enacted in order to give full effect to Article 8, paragraph 3, of the Convention. It requests the Government to provide information on any progress achieved in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bulgaria, Cameroon, Djibouti, France, Haiti, Italy, Lebanon.*

Convention No. 107: Indigenous and Tribal Populations, 1957

Argentina (ratification: 1960)

1. The Committee notes the Government's brief report, which arrived too late to be examined at the last session. It recalls that in its previous observation it called attention to the fact that for some years, the Government's reports had contained almost no information on the practical application of the Convention. It repeats this comment, and again expresses the hope that the Government will provide more detailed information in its next report.

2. The Committee notes with interest that on 24 March 1992, by Act No. 24,071, the Argentine National Congress authorized ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), published in the *Official Gazette* on 20 April 1992, and that Convention No. 169 is therefore incorporated into national law. As the Office has not received the instrument of ratification it requests the Government to keep it informed of its intentions in this regard.

3. The Committee also notes with interest that on 11 August 1994 article 67(15) of the National Constitution was modified to recognize the ethnic and cultural pre-existence of the indigenous peoples of Argentina. Furthermore, it guarantees respect for their identity; the right to an intercultural and bilingual education; the right to possession and ownership of the lands they traditionally occupy; and their participation in any matters affecting their well-being including the use of natural resources. Noting also that the provinces have concurrent authority in this matter, the Committee requests the Government to provide information on any concrete measures taken or envisaged to implement this constitutional provision in practice. The Committee notes in this

connection that the National Institute of Indigenous Affairs, created by legislation in 1989, has not yet begun to function.

4. The Committee notes from the Government's report that the Provinces of Chaco, Santa Fe, Salta, Misiones and Formosa have formally adhered to Act No. 23,302 of September 1985 on indigenous policy and support to indigenous communities. Recalling that some provinces have adopted their own indigenous legislation, the Committee notes that the Government will request copies from the provinces and forward them to the ILO. In this context the Committee notes the information communicated to the Government indicating that some of the provincial legislation may not be in conformity with Act No. 23,302. The Committee requests the Government to provide information in this regard, and on the other matters raised in the request being addressed directly to it.

[The Government is asked to report in detail in 1997.]

Bangladesh (ratification: 1972)

1. The Committee notes the Government's report, which arrived too late to be dealt with during the Committee's previous session.

2. With reference to reports of the incident on 17 November 1993 in which a number of unarmed tribal civilians were reported to have been killed at Naniachar, Rangamati District, the Committee notes the statement in the Government's report that the incident was the result of a conflict between rival groups, that the number killed was 13 and that others were injured. It notes further that an inquiry commission has been appointed and that the commissioner, Justice Mohammed Habibur Rahman of the High Court Division of the Supreme Court, submitted a report of the inquiry on 31 May 1994. The Committee requests the Government to provide further information on this matter in its next report. The Committee also notes the information about the inquiry into the violent incident which took place on 10 April 1992 in the tribal village of Logang, Khagrachari District, and about measures taken as a result.

3. The Committee notes that it continues to receive reports of human rights violations against the tribal inhabitants of the Chittagong Hill Tracts (CHT), including information regarding another incident involving unarmed tribal civilians at Bandarban District on 15 March 1995 in which many tribals are said to have been injured, and their property destroyed. There are also allegations that those responsible include the local security force in conjunction with non-tribal settlers, and that a number of tribal students were arrested without due process. It notes further that the UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment has stated that he continues to receive reports of torture and rape by members of the military and paramilitary forces against the tribal people in the CHT (UN document E/CN.4/1995/34). While it continues to treat such reports with caution, the Committee requests the Government to provide detailed information on measures taken or contemplated to protect the life and property of the tribal inhabitants of the Hill Tracts.

4. *Legislation in force*. The Committee notes that the Chittagong Hill Tracts Regulation (No. 1 of 1900) and the Hill Tracts Districts Local Government Council Acts (Acts No. XIX, XX and XXI of 1989) are applicable in the Hill Tracts. It also notes the information that the Hill Districts (Repeal and Enforcement of Law and Special Provision) Act, 1989 has not come into force. In this context the Committee recalls the concerns of tribal representatives over the possibility of repeal of the CHT Regulation and requests information on whether the Government has considered withdrawing the Hill Districts (Repeal and Enforcement of Law and Special Provision) Act, 1989. It also

recalls its request for further information regarding the mechanisms in place to ensure conformity between the Hill Districts Local Government Council Acts and the 1900 Regulation, including procedures to resolve any divergencies.

5. *Articles 11 to 14 of the Convention: Power of the local government councils to allocate land rights.* The Committee notes that the Government has repeated the information in its previous reports concerning the *power* to allocate land rights in the CHT, but that it has not supplied the information the Committee has requested on the allocations of lands *actually made* since the district councils were formed. The Committee considers this of particular importance, and again requests the Government to provide this information in its next report. In this regard, the Committee notes from the report that land allocation is not included in the list of 11 subjects transferred by the Government to the local government councils.

6. The Committee notes from the report that the cadastral survey in the Bandarban district — from which no tribal people have taken refuge in India — will take place shortly; and that the survey has been postponed in the Rangamati and Khagrachari districts from which large numbers of tribals have taken refuge in India. It also notes the Government's statement that a cadastral survey is essential to protect the interests of the "inhabitant owners" of the land as the local administration is facing tremendous problems in maintaining land records. The Committee recalls that many thousands of non-tribals have been settled by the Government in the CHT, in many cases on the traditional lands of tribal people with the result of displacing the original landowners; and that thousands of tribal people fled to India as a result of the conflict in the CHT. Recalling that more than 50,000 tribals from Bangladesh remain in India, the Committee reiterates its concern that a cadastral survey conducted prior to a resolution of conflicting land claims between the non-tribals and tribal people (including the refugees in India and those who have been displaced within the CHT itself), and the repatriation of all the refugees in India will significantly diminish any opportunities for the original landowners to recover their traditional lands. It therefore stresses its concern that the Government take the necessary steps to protect the land rights of the tribal inhabitants of the CHT region, including appropriate procedures for the recovery of their traditional lands.

7. *Progress in achieving a negotiated settlement of the conflict and return of tribal refugees.* The Committee notes that the Government has appointed a nine-member Parliamentary Committee to conduct negotiations with the Jana Shanghati Samiti (JSS), and notes the information on the proposals submitted. It also notes that there was a general amnesty until June 1994, and that the negotiations are continuing. The Committee requests the Government to keep it informed on any further progress in achieving a negotiated settlement to the conflict. Please also indicate whether the general amnesty is still in place or has been renewed, and details of its application to the cases of warrants of arrest against tribal people.

8. The Committee notes from the report that a first instalment of 379 tribal families have arrived in the CHT as part of the repatriation of the tribal refugees from India. It also takes note of the comprehensive rehabilitation package outlined in the report including financial and other assistance, possibilities of reinstatement in previous employment, special educational facilities, and the restoration of their land, and that there shall be no resettlement in cluster villages. It notes further that a Rehabilitation Committee has been established with a tribal MP as president. The Committee notes further that there have been two missions to the country from India to observe the repatriation process. In this respect, the Committee notes that it has received reports from various sources indicating problems in the implementation of the agreements. It requests the Government to keep it informed in this regard.

9. *Situation of other tribal populations of Bangladesh.* The Committee notes the statement in the report that, contrary to the information the Committee has received, no cases have been brought by the Koch or the Mandi of the Madhupur Forest against the Forest Department, and that there is no conflict between the aboriginal groups and others, including the forest departments. The Committee requests the Government to keep it informed in this regard. The Committee recalls also that it has made repeated requests for information on the situation of other tribal groups in the country, to which the Government has not replied, and again requests it to provide this information.

10. The Committee is raising additional points in a request addressed directly to the Government.

[The Government is asked to report in detail in 1997.]

Brazil (ratification: 1965)

1. *Invasion of "garimpeiros".* The Committee notes that the Yanomani or Free Forest (*Selva Libre*) Operation, Phase II, is continuing, and that 1,382 independent goldminers (*garimpeiros*) have been expelled from various regions including Alto Rio Macajaí/RR, Alto Rio Couto Magalhães, Parafuri and Urarucoera among others. It notes also the measures taken by the Government to increase the scope of the Operation's activities. However, noting that approximately 200 *garimpeiros* remained in the area in September 1995, mainly in the Parafuri and Rio Parima regions, the Committee requests the Government to continue to supply information in this regard.

2. *Articles 2 and 27 of the Convention* (responsibility for coordinated action). The Committee notes the financial allocation provided by the Government to the National Indian Foundation (FUNAI), and that in order to complement these resources FUNAI has entered into a number of agreements with governmental and non-governmental organizations, details of which were provided with the Government's report. In addition, the Committee notes the information regarding the project for indigenous lands and the pilot project for the conservation of the tropical forests (PP-G7). It notes that this programme is funded by the G-7 industrialized countries and administered by the World Bank through the Rain Forest Trust Fund, with FUNAI as the executing agency. It requests the Government to continue to provide information on the development projects undertaken or contemplated in indigenous areas, and any further measures to strengthen FUNAI's resources so that it may continue to provide effective assistance to indigenous communities.

3. *Article 10* (protection of human rights). With reference to the massacre in Haximu in July 1993 the Committee notes that the judicial process to bring those responsible to justice continues. It requests the Government to continue to provide information in this regard, including any measures taken to punish those responsible.

4. *Articles 11 to 14* (land). The Committee notes that the Government's comments regarding the information received from the Unique Workers' Central (CUT) concerning the displacement of indigenous peoples due to the construction of hydro-electric projects, were received after it had commenced its February-March 1995 session and were therefore not taken into account during that session. It notes that there are four hydroelectric projects planned for the Vale do Ribeira area, of which three are operated by state enterprises (CESP), and the fourth by a private company (Brazilian Aluminium Company — CBA). It notes further that the area demarcated for the Guarani people in Sao Paolo (Agenor de Campos, Aguapeú, Guarani de Barragem and Peruíbe) will be affected by the project, and that consultations are taking place between an NGO working on indigenous issues (Centro de Trabalho Indigenista) with IBAMA (Brazilian Institute

of the Environment) and the Secretary of the Environment for the elevation of the affected areas. The Committee also notes the procedures for the approval of a hydroelectric project by the Department of Water and Electric Energy, especially the requirement that prior environmental impact assessment studies have to be completed before authorization is granted, and that IBAMA is the administrative agency responsible for approving such studies. In this connection, it notes that a legal action has been brought against IBAMA for irregularities in the granting of CBA's licence, and that as a result further work on the construction has been suspended. The Committee requests the Government to keep it informed of any further developments in this regard, including the results of the consultations between the NGO Centro de Trabalho Indigenista and IBAMA. Please indicate in particular whether there is any requirement in granting such licences for the impact on the indigenous populations to be assessed, within the environmental impact studies or otherwise.

5. *Article 15* (labour). The Committee notes the information in the report regarding persistent reports of forced labour of members of indigenous communities. In this connection the Committee notes the conclusion of the Committee established to examine the representation made by the Latin American Central of Workers (CLAT) under article 24 of the ILO Constitution alleging non-observance by Brazil of the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105), which was examined by the Governing Body during its November 1995 session (GB. 264/16/7) and refers to its observation in this regard at its present session. It notes in particular the information regarding the employment of indigenous workers including children as sugar-cane cutters at a distillery in the State of Matto Grosso do Sul in slave-like conditions, and that a complaint was lodged against FUNAI for its involvement in the hiring of indigenous workers. The Committee requests the Government to provide further information on measures taken to secure proper working conditions for indigenous workers, including further information on whether regular inspections have taken place in areas where there are indigenous workers. Please also indicate any specific measures taken or contemplated with respect to indigenous children working under exploitative conditions.

6. *Articles 19 and 20* (health). The Committee notes the information in the report regarding the health facilities available to indigenous communities and requests the Government to continue to provide information in this regard. In this connection it notes that it continues to receive reports of health problems affecting the Yanomani as a result of the invasions of the *garimpeiros* in their territory.

7. The Committee notes that the new draft Indian Statute has been passed to the Senate for approval and requests the Government to provide further information in its next report on whether this legislation has been adopted and come into force. Please also provide a copy of the Statute when it has been adopted.

[The Government is asked to report in detail in 1997.]

India (ratification: 1958)

1. The Committee notes that a Five-Member Group has been appointed to continue to review discussions initiated in June 1993 on the question of the *Sardar Sarovar Dam and Power Project*, concerning which the Conference Committee requested the Government to take urgent measures to bring its resettlement and rehabilitation policies for tribal people into line with the Convention. It requests the Government to provide information on the work of the Five-Member Group with its next report, including a copy of any findings it may have adopted. In this connection it also notes that the

independent commission which was to have been appointed in 1993 has not been established.

2. *Sardar Sarovar.* The Committee notes the detailed information in the report regarding the continuing efforts of the Government to rehabilitate and resettle the displaced tribal people in Gujarat, Madhya Pradesh and Maharashtra. It notes also that the relevant state governments have finalized their policies for rehabilitation and resettlement — which according to the Government are more generous than the provisions adopted by the Narmada Water Dispute Tribunal (NWDT) — and that there is a subgroup on resettlement and rehabilitation of the Narmada Control Authority. The Committee notes further that as of March 1994, a large number of affected families had been resettled, with allocations of agricultural and homestead land, but that many families remain to be resettled and rehabilitated, including 34 "Project Affected People" who do not wish to be moved from their original homes. It requests the Government to keep it informed of any further developments in the resettlement and rehabilitation project, including the amount of compensation paid to the affected families, and any measures taken or contemplated to assist the affected families in adjusting to their new habitat. Please also provide information on the rehabilitation and resettlement policies of the state governments, and on the work of the subgroup on resettlement and rehabilitation in the ongoing process of resettlement and rehabilitation.

3. The Committee recalls its earlier comments regarding the legal concept of "traditional occupation" which included the kinds of land use for which no compensation was being given, and the Government's recognition of the traditional occupation of land. Noting from the information provided that each resettled family has been allotted between 2 and 8 hectares of irrigated land, in addition to financial aid for irrigation purposes, the Committee requests information on the manner in which the allocation of resettlement land takes into account the amount of land previously occupied by the displaced tribal population, including any measures taken or envisaged to compensate for different kinds of land use.

4. *Technical cooperation for tribal populations.* The Committee notes that the ILO Inter-Regional Programme to Support Self-Reliance of Indigenous and Tribal Communities through Cooperatives and other Self-Help Organizations (INDISCO), with funding from the Danish International Development Agency (DANIDA), has initiated a number of employment and income-generating pilot projects for the benefit of indigenous and tribal communities in the countries in which it works and that these projects are designed in close cooperation with the concerned communities. The INDISCO projects aim to protect their traditional values and culture through the promotion of grass-roots cooperatives and other self-help organizations. The Committee notes with interest the INDISCO pilot project involving the tribal women of Durgapur village in Orissa. It notes also that other technical cooperation projects have been undertaken in India by the ILO for the benefit of indigenous and tribal communities. The Committee hopes the Government will continue to work together with the ILO in this manner and that it will contact the Office for any further assistance in order to meet more fully the needs of its indigenous and tribal population as required under the Convention.

5. The Committee is addressing a request directly to the Government on other points.

[The Government is asked to report in detail in 1996.]

Panama (ratification: 1971)

1. The Committee notes from the Government's report that it continues to give attention to the problems faced by the indigenous populations in the country. In particular, it notes the steps to enhance the participation of the indigenous communities in matters affecting their well being, and to strengthen the recognition of their distinct identity and traditional values and institutions through dialogue and consultations.

2. In this context the Committee notes with interest the Government's statement that it has not yet decided whether to ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 169), which revises the present Convention No. 107, but that it is studying the question. The Committee asks that it be kept informed of any further developments in this regard.

3. With reference to the requirement of *Article 2 of the Convention* that "Governments shall have the primary responsibility for developing coordinated and systematic action, the Committee notes that the Ministry of Government and Justice, through its agency the National Directorate for Indigenous Policy, is taking steps in this direction. However, there are indications that the coordination among the various entities active in indigenous matters remains ad hoc, and that a more concerted effort is required in order to meet the complex range of problems facing the indigenous population in the country. The Committee trusts the Government will continue to take measures to ensure that there is increased coordination among the various high-level state entities involved.

4. The Committee is also raising a number of questions in more detailed comments addressed directly to the Government.

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In addition, requests regarding certain points are being addressed directly to the following States: *Angola, Argentina, Bangladesh, Brazil, Ecuador, El Salvador, Guinea-Bissau, India, Panama, Syrian Arab Republic.*

Convention No. 108: Seafarers' Identity Documents, 1958

Requests regarding certain points are being addressed directly to the following States: *Guinea-Bissau, Kyrgyzstan.*

Convention No. 110: Plantations, 1958 [and Protocol, 1982]

A request regarding certain points is being addressed directly to *Ecuador.*

Convention No. 111: Discrimination (Employment and Occupation), 1958

Algeria (ratification: 1969)

1. *Article 1, paragraph 1(a), of the Convention.* The Committee notes that the report repeats that although religion has never, in practice, given rise to any discrimination whatsoever in employment and occupation, the public authorities — in their concern to improve domestic legislation continuously in order to apply in proper form the principles laid down in the Conventions ratified — will not fail to take the necessary measures in the near future to complete the procedure for revising the national legislation with a view particularly to including religion as a prohibited ground for

discrimination. The Committee hopes that this procedure, which has been in progress for a number of years, will be completed shortly. It would appreciate receiving with the next report details on the specific measures taken to this end and the results obtained, along with copies of the revised texts as soon as they are adopted.

2. The Committee is raising other points in a request addressed directly to the Government.

Angola (ratification: 1976)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Committee notes with interest the Government's statement that the draft of the new General Labour Act is being discussed. The Committee hopes that the Government will keep it informed on the progress of the above draft and of any new regulations or decrees adopted in connection with it, which have a bearing on the principles of the Convention.
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> 2. With reference to its previous comments, the Committee recalls once more that the provisions of the Constitution of 1992 which enshrine the equality of all citizens before the law, without any distinction, do not mention political opinion. The Committee notes with interest in this connection that section 18 of Act No. 23/92 enacting the revision of the Constitution, includes "ideology" among the criteria on which the equality of citizens is established. The Committee understands that the term "ideology" applies to political opinion and would be grateful if the Government would clarify in its next report that the term "ideology" covers the expression or demonstration of political opinions, in accordance with the Convention, taking into account paragraph 57 of the Committee's 1988 General Survey on Equality in Employment and Occupation.
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> 3. With regard to access to education and training, university courses and educational guidance, the Committee recalls that the Government stated in its previous report that far-reaching and comprehensive reforms were under way particularly in the teaching sector. In its earlier comments the Committee noted that section 6(5)(e) of Decree No. 17/89 of 13 May 1989 issuing the statutes of the Agostinho Neto University provides that the University Council shall ensure the political and ideological training of university administrative staff and graduates. The Committee also noted that section 30 of Decree No. 55/89 of 20 September 1989 to approve the rules governing the University's teaching staff provides that the duties of teachers should include assisting students in their political and ideological training. The Committee notes the Government's statement in its previous report that the removal of all ideological references from the Constitution and the fact that the MPLA-PT is no longer in power imply that any provision which is inconsistent, such as the one in above-mentioned Decree No. 17/89, is without effect. The Committee considers that if the legislation were to be amended expressly in this way, any ambiguity regarding requirements of a political or ideological nature affecting the teaching sector would be removed. Consequently, the Committee trusts that the Government will be able to provide information in its next report on progress made in so amending the legislation.
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> 4. The Committee raises a number of other points in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Argentina (ratification: 1968)

The Committee notes with interest that Act No. 22140 of 1980 regarding the basic terms and conditions of employment in the public service is presently before Congress with a view to its possible reform. It trusts that its comments on the need for the explicit repeal of sections 8(g) and 33(g) of the Act providing that entry into the national public administration may be refused, and public servants can be dismissed, for belonging, or having belonged, to groups advocating the denial of the principles of the Constitution or for adhering personally to a doctrine of this kind, will be taken into account. The Committee requests the Government to keep it informed of any further developments in this regard, and to provide a copy of the legislation when it has been adopted.

Austria (ratification: 1973)

1. The Committee notes with interest the amendment of the 1979 Equality of Treatment Act by Act No. 833/1992, in force on 1 January 1993, which, inter alia, expands the concept of equality of treatment and improves enforcement through the following provisions:

- inclusion of the concept of "indirect discrimination" to clarify that an explicit reference to the sex of the employee(s) is not required for a measure to be regarded as discriminatory if it places one sex at a disadvantage;
- introduction of a claim to compensation for damages as a result of violations of the principle of equal treatment in the establishment of the employment relationship (up to two months' salary) and in career advancement (up to four times the difference between the salary paid and that which would have been paid after promotion);
- introduction of an opportunity to appeal against termination of or dismissal from employment which results from a violation of the principle of equal treatment;
- incorporation of sexual harassment by the employer or by a third party followed by inaction of the employer, in the coverage of discrimination on grounds of sex on the basis of which a claim for compensatory damages can be made;
- introduction of administrative penalties for breach of the requirement that advertisements for employment shall be gender-neutral; and
- creation of an obligation to display the Equality of Treatment Act in the workplace.

Noting from the 1990 amendment to the principal Act that a five-yearly report will be made to the National Assembly on the development of equality in the country, the Committee requests the Government to send a copy with its next report.

2. The Committee notes that the Federal Chamber of Labour is of the opinion that the amount of damages compensation introduced by Act No. 833/1992 is insufficient. The Federal Chamber points out that a proposal by trade unions and the Federal Chamber of Labour for reversal of the burden of proof has not been accepted. The Committee asks the Government to comment specifically on these points.

3. The Committee notes with interest that Federal Act No. 100/1993 on the Equality of Treatment of Men and Women and the Promotion of Women in the Federal Service, in force on 13 February 1993 and amended on 1 January 1994, provides for, inter alia:

- prohibition of direct and indirect discrimination on the basis of sex in employment and training;
- listing of criteria not to be considered in hiring, including previous interruption of employment, part-time service, age and marital status and a spouse's income;
- invalidity of dismissals established as discriminatory;
- incorporation of sexual harassment in the definition of discrimination on the basis of sex;

- establishment of a Commission for Equal Treatment in the Federal Service;
- preference to be given to women for the purpose of raising the percentage of women in permanent federal service to a minimum of 40 per cent, except for those posts where a given sex is "an indispensable prerequisite for the performance of the designated work"; and
- obligation of each central agency to report on a two-yearly basis on the status of equality of treatment and promotion of women, starting 31 March 1996.

The Committee requests the Government to inform it (with statistical data) of the progress achieved in redressing the low proportion of women in federal employment and their under-representation in high-level posts. It would appreciate receiving with the next report a copy of the first central agencies' equality reports.

4. Also in the domain of measures against sex-based discrimination in employment, the Committee notes that the Federal Act respecting the reports of the federal Government concerning the Reduction of Disadvantages for Women (No. 837/1992) requires the Government to report to the National Assembly every second calendar year (until 2018) on measures concerning working women (such as the creation of facilities to make it possible for men and women to combine family responsibilities with professional activities; socio-political measures to reduce the disadvantages for women arising from motherhood; active measures to promote women in all social spheres, in particular in the labour market, science, art and public employment; and measures to ensure adequate livelihood for women, above all in respect of old age, invalidity and unemployment). The Committee also notes the adoption of the Labour Market Service Act (No. 314/1994) which provides that labour market services shall be organized so as to establish the greatest possible equality of opportunity and that "(i) in particular, the gender-specific division of the labour market and the discrimination against women on the labour market shall be combated with appropriate intervention" (section 31(3)). The Committee asks the Government to provide copies of the most recent government report to Parliament and to inform it of any labour market interventions aimed at eliminating sex-based occupational segregation.

5. The Committee notes that, in reply to its previous observation concerning the measures taken by the Länder to give effect to the Equality of Treatment Act in respect of agricultural and forestry workers, the Government points out that all Länder have adopted the prohibition of sex-based discrimination in their implementing legislation, and all except three have given effect to the stronger enforcement amendments of Act No. 833/1992 by making the required changes in their law.

However, the information supplied by the Federal Chamber of Labour on the number of Länder which have given full effect to the amended Act conflicts with that of the Government, and the Federal Chamber of Labour considers that the Government's authority in respect of the failure of the Länder to enact implementation laws is limited as a result of article 12 of the federal Constitution (division of legislative powers between the federal and state jurisdictions). The Committee consequently asks the Government to provide details regarding its efforts to ensure that the Equality of Treatment Act is fully implemented in the fields of agriculture and forestry.

6. The Committee is addressing a request directly to the Government on other matters."

Bangladesh (ratification: 1972)

The Committee notes the information provided by the Government in its report.

1. In its previous observation, the Committee recalled that, for many years, it had asked the Government to supply information on the measures being taken to overcome the obstacles to women's increased participation in employment. The Committee sought information on the elimination of sex-based discrimination in vocational training, access to and terms and conditions of employment. Particular concern was expressed over the literacy rate of women which had stood at only 16 per cent in 1993 (UN document CEDAW/A/48/38, 28 May 1993).

2. In its report, the Government states that it has long recognized the importance of integrating women into the mainstream of national activities. In this regard, the National Women's Affairs Cell in the Department of Social Welfare and the National Women's Organization (a government-instituted non-governmental organization) were created in 1976. The Ministry of Women's Affairs, created in 1978, now has one Directorate, 22 district and 136 local offices. Thirty focal points for the advancement of women in government ministries, divisions and agencies have been set up during the Fourth Five-Year Plan (1990-95). Since the beginning of the Second Five-Year Plan (1980-85), a separate allocation has been made for programmes for the advancement of women, in addition to the multisectoral programmes in various ministries where the Women in Development (WID) strategy is a strong component of development programmes and projects. The report also mentions a number of the ongoing development projects implemented by the Ministry of Women and Children's Affairs, among which are included projects to promote employment for rural women, programmes to increase women's access to technology and awareness-raising projects. The Government also supplies information on the representation of women in the national parliament.

3. The Government also states that it is according top priority to female education and skill development. While acknowledging that the female literacy rate is still quite low (according to the report, 19.2 per cent in 1991), the Government indicates that it has initiated concerted measures to encourage women's participation in educational programmes and expects the literacy rate to rise to 50 per cent by the year 2000. A steady progress in school enrolment has been observed following the Government's decision to impart free education to girls living in rural areas, up to the secondary level, the stipend programme for girls and the introduction of the Food for Education programme in 1993.

4. As concerns the employment of women, the Government indicates that progress has been achieved, although it concedes that there is still scope for improvement. The report states that, despite the social disadvantages, female workers are entering the formal labour market, owing largely to their own, and employers', increased awareness. Female workers are consolidating increasingly their stake in the expanding export-oriented industries, such as the garment, leather and electronics industries. In 1990, women constituted 25 per cent of the total industrial workforce. As concerns the public sector, where 10 per cent of all gazetted and 15 per cent of all non-gazetted posts are reserved for women, female employment rose to 8 per cent in the 1980s and is still rising.

5. In conclusion, the Government states that, while women have not always been able to benefit from macro policies and major programmes and projects, a number of initiatives sponsored by the Government and by non-governmental organizations have

demonstrated that developmental goals can be achieved effectively by enhancing the capacity of women: both the economic and social returns are high.

6. The Committee trusts that the Government will continue, in its future reports, to provide detailed information on the measures being taken to improve further the educational and employment opportunities of women. As the export-oriented industry appears to be an important and expanding source of employment for women — especially the garment industry, where women comprise more than 80 per cent of 1 million workers — the Committee hopes that the Government will also provide information about the measures undertaken to ensure equality of opportunity and treatment for women in the relevant sectors. In addition, the Committee looks forward to receiving particulars about the Perspective Plan, and its implementation, that is to strengthen the integration of women and other underprivileged groups into the mainstream of sector-based planning, as from July 1995.

7. The Committee hopes that the Government will also address more fully the question of the social disadvantages faced by women in the employment field, to which the report refers. In this connection, the Committee is concerned by various reports about the way in which certain groups have apparently expressed opposition to the education, training and employment of women. Accordingly, the Committee would be grateful if the Government would indicate the type of action it takes to investigate and bring to justice, those responsible for violence against individual women and organizations engaged in development work in the country.

8. The Committee is addressing a request directly to the Government concerning other aspects of the application of the Convention.

Barbados (ratification: 1974)

Referring to its previous observation requesting information on any measures adopted to apply the Government's declared policy of non-discrimination and promotion of equality of opportunity and treatment in employment and occupation, particularly for women, the Committee notes, from the very brief report submitted by the Government, that it is proposed to modernize the labour legislation and to legislate a comprehensive Employment Protection Act. The Committee hopes that the Government will be able to indicate that progress has been made in this respect in its next report.

Brazil (ratification: 1965)

The Committee takes note of the Government's reports, the comments received from the Union of Employees of Banking Establishments of Sao Paolo dated 3 July 1995 and the discussion which took place in the 1995 Conference Committee which led to a technical advisory mission to the country from 16 to 20 October 1995.

1. The Committee notes with interest that the technical mission to the country enhanced social dialogue on the need for a more comprehensive and cohesive national policy for the promotion of equality in employment and occupation and for the better implementation of that policy. Noting that the Government is now to undertake a nationwide consultation process, linked to its legislative activities for women workers' rights and against racism (discussed below), the Committee requests the Government to inform it of developments in the consultations and the outcome of the proposed national seminar to be held in April 1996, involving the social partners and other interested bodies, to elaborate the national policy on equality in employment.

2. *Discrimination on the basis of sex.* The Committee notes with satisfaction that legislation prohibiting employers from requiring a medical certificate attesting to the

sterilization of women workers was adopted as Act No. 9029 on 13 April 1995 and contains strong penalties (imprisonment of one to two years; an administrative fine; and exclusion from government loans and financing). The Committee notes that Bill No. 667/91 was shelved since its provisions were encompassed by the new Act No. 9029. According to the report, the Government has held two meetings with the unions to discuss machinery for compliance with Act No. 9029. The Committee asks to be kept informed of the results of these consultations.

3. The above-mentioned Union of Employees of Banking Establishments alleges sex discrimination by the Bradesco Bank when it dismissed a female employee. The Committee notes that the Government reports that this dismissal was part of a retrenchment policy being carried out at that time by the Bank, affecting 44 members of staff of the Bank, seven of whom are from the same branch office as the person mentioned by the Union, without discrimination on the basis of sex.

4. The Committee notes that the draft legislation to establish a Fund for the Vocational Training of Women, referred to in its previous observation, has been redrafted as Senate Bill No. 147/95 to establish measures for protecting the access of women to the labour market through specific incentives and is being discussed by committees of the federal Senate. The Committee also notes that Chamber of Deputies Bill No. 382-B of 1991 on women's access to the labour market bans sex discrimination in employment and provides for a number of labour market policies to promote women's employment. The Committee would appreciate receiving information on the passage of these Bills, together with copies of the final texts.

5. *Discrimination on the grounds of race, colour or national extraction.* The Committee had requested information on measures taken to strengthen the observance of the anti-discrimination laws in this respect, particularly in view of the Government's previous report according to which only two cases concerning employment discrimination against blacks and mulattos had been lodged with the various authorities. The Government replies that Bill No. 123/92 to give application to the constitutional principle of equality and to eliminate the practice of racism is currently in the final stages of approval before Parliament. This legislation will also include strong penalties for violation of the law (imprisonment of one to two years; an administrative fine; and, in the case of the public service, administrative inquiry into the discriminatory practice and possible dismissal). The Committee notes that other drafts, such as Chamber of Deputies Bill No. 1810/91 (mentioned in the previous direct request), Bill No. 715 of 1995 to amend the Racism Act No. 7716 of 1989, Senate Bills Nos. 542 of 1991, 14 of 1995 and 129 of 1995, and proposals dated 9 July 1993 for reform of the Penal Code, also contain elements of a national policy against racial discrimination. The Committee trusts that the Government will inform it soon of the adoption of this legislation, in particular Bill No. 123, and that it will send a copy of the final texts.

6. *Enforcement of the national policy on equality in employment.* Regarding the role of workers' and employers' organization in enforcing anti-discrimination legislation, the Committee notes that the National Labour Council has been reactivated by Decree No. 1617 of 4 September 1995 and is to have its first meeting before the end of 1995. It will serve as a tripartite negotiating forum for implementing a new labour relations system. The Committee would appreciate receiving information on this body's treatment of equality issues, both within the specific context of collective bargaining (such as equal pay, parental leave, etc.) and as general workplace issues (such as sexual harassment). The Government also refers to the role of the social partners in the technical seminar on the Convention which took place during the mission to the country as proof of the

dynamic approach to cooperation with workers' and employers' organizations in the implementation of the Convention.

7. The Committee notes the description of enforcement procedures outlined in the report (labour inspection; Public Ministry of Labour "public civil inquests" under Instruction No. 1 of 1993; complaint to the Attorney General for Labour). The Committee also notes Ministerial Decree No. 1006 of 5 October 1995 aimed at improving training courses for labour inspectors who deal with, inter alia, women workers, as well as the information obtained during the technical mission to the country concerning recent judicial decisions awarding redress to victims of racial or sex discrimination in employment. The Committee would appreciate receiving information on the functioning of these various bodies in the elimination of discrimination in employment and occupation on all the grounds listed in *Article 1, paragraph 1(a) of the Convention*: race, colour, sex, religion, political opinion, national extraction and social origin.

8. The Committee is addressing a request directly to the Government on other points.

Bulgaria (ratification: 1961)

1. *Discrimination on the basis of political opinion.* The Committee notes with interest the repeal of section 9 of the Banking Act (No. 25 of 1992) and section 6 of the Act to amend the Pensions Act of 12 June 1992, which had, respectively, excluded persons connected with the former regime from participation in banks' boards or management and excluded employment in certain specified political bodies of the former regime from counting as pensionable service. These provisions had been declared discriminatory on the basis of political opinion by the Constitutional Court in two rulings delivered in 1992 (copies of which are supplied by the Government), and the Committee had requested the Government to inform it of their implementation. As the Committee had expressed an interest in being kept informed of any other laws restricting access to employment or affecting terms and conditions of employment due to affiliation or association with the former political regime, it would be grateful if the Government would verify the situation of scientists and professors removed from policy-making posts in recent years, and inform the Committee whether these involved any cases based on de-communization texts.

2. *Discrimination on the basis of national extraction or religion.* The Committee had noted the various measures taken by the Government to improve the position of the Turkish minority, and had asked particularly for information on the impact of Council of Ministers Decrees Nos. 139 of July 1992 and 249 of December 1992, both of which aimed at applying the Act on Political and Civil Rehabilitation of Repressed Persons. The Committee thanks the Government for the copies of the Decrees supplied and repeats its request for details on the number of persons who have applied for compensation under them, and on the number of applications settled.

3. In the same vein, the Committee noted that the Government's approach to the problem of compensating the Turkish minority which had been forced to flee the country, evidenced by Decree No. 170 of 30 August 1990 to restore real estate to those Turkish Bulgarians who had been forced to sell, had been challenged in a case presented to the Constitutional Court. Following that challenge, the Government reversed its approach and introduced Act No. 205/1992 on the Restitution of the Ownership of Real Estate to Bulgarian Citizens of Turkish Origin who Applied to Leave for the Republic of Turkey and Other Countries in the May-September 1989 Period, which envisaged

restoring the property to the purchasers and leaving the seller returnees of Turkish origin only compensation. The Committee asked for information on the application of Act No. 205. From the copy of the Constitutional Court ruling (No. 18 of 14 December 1992) supplied by the Government, the Committee notes with interest that the Court rejected the claim of the current land owners that the opportunity offered to Turkish Bulgarians to recover title amounted to their unjust enrichment by reason of their ethnic origin. Stressing that the law aimed at remedying an injustice, the Court declared unconstitutional section 5 of Act No. 205/1992, which permitted returnees' claims to be inadequately compensated.

4. Noting that Decree No. 170 remains in force and that it provides for six months' compensation to those returning workers who had been dismissed from their employment and who are registered as unemployed but not receiving other benefits, the Committee asks the Government for information on the number of returnees who have been able to benefit from this compensation. The Committee notes from the Government's report that, faced with a wave of voluntary emigration to Turkey in 1992, special measures have been taken recently to assist members of this minority who wish to stay and work in Bulgaria, in particular the returnees. The National Employment Office is responsible for two programmes to improve their education, training and labour market participation: an ongoing literacy and training programme in ethnically mixed regions (already noted in the previous observation); and a "From social assistance to employment" programme aimed at reducing the number of persons receiving social assistance, the majority being Turkish, gypsy and other minority group members. The Committee would appreciate receiving statistics on the impact that these programmes are having in improving equality of opportunity and treatment for minorities, in particular those of Turkish origin.

5. The Committee is addressing a request directly to the Government on other points.

Canada (ratification: 1964)

1. The Committee notes the letters of 10 February and 1 March 1995 from the National Trade Union Confederation (Confédération des Syndicats Nationaux- CSN) alleging non-conformity with Convention No. 111 by the Canadian Government in the case of an applicant for work with the Royal Canadian Mounted Police (RCMP). It also notes the Government's reply dated 28 August 1995.

2. The CSN is concerned over the case of a person who had applied for work with the RCMP in May 1987. On the advice of a personnel officer, he entered the process of selection with a view to becoming a gendarme, and then an industrial relations officer. As part of an aptitude test, which he passed, he volunteered information regarding his state of health, including some cardio-vascular problems and asthma. In October 1987, before the medical examinations which were due to follow, the RCMP informed the applicant that he would not be offered employment as a gendarme because of his state of health. In May 1988, the applicant filed a complaint with the Canadian Human Rights Commission (CHRC), alleging that the RCMP had discriminated against him on the basis of his state of health in their refusal to hire him as an industrial relations officer. In December 1989, the RCMP admitted that the decision to refuse the applicant work as a gendarme without a medical examination had been wrongful. It encouraged the applicant to re-enter the selection process and stated that he would not be prejudiced by the complaint. The applicant refused to do so based on his doubts that the consideration of his application would be neutral. The CHRC dismissed the case stating that, according to information supplied by the RCMP, the post of industrial

relations officer originally applied for by the applicant did not in fact exist, or in any event was not recruited by the RCMP directly. Moreover, the CHRC considered that the RCMP had corrected its error of refusing the applicant to become a gendarme before the medical examination by inviting him to reapply.

3. The Committee notes that discrimination on grounds of physical disability is prohibited under the Canadian Human Rights Act *(Article 1, paragraph 1(b) of the Convention)*. The Committee also notes the national-level decision, and that the opportunity to re-enter the process of application offered a remedy for this discrimination.

4. The Committee is addressing a request directly to the Government on certain other points.

Cape Verde (ratification: 1979)

1. Further to its previous comments, the Committee notes with satisfaction the adoption of Act No. 101/IV/93 to revise the general legal framework governing labour relations, of which section 39(b) prohibits any discrimination on the grounds set out in the Convention, including "colour", which is not explicitly laid down in the Constitution.

2. With regard to the amendment of Legislative Decree No. 83/81 of 18 July 1981, which establishes the requirement in sections 5(c), 7 and 8 that students must join and participate in the activities of the Organization of Cape Verde Students in order to have access to a study fellowship abroad, the Committee notes that the Government refers to the information provided in its previous report. It had indicated that the amendment or repeal of the above provisions of the Legislative Decree was under examination. The Committee notes that it has been commenting on the discriminatory nature of these provisions since 1986 and urges the Government to indicate in its next report the progress achieved in the revision of this text and to provide a copy of the text as soon as it has been amended.

3. The Committee notes with interest the adoption of Legislative Decree No. 1/94 of 10 January 1994 establishing the Institute on the Condition of Women, which provides in section 4 that the Institute is responsible for the promotion of real equality between men and women and for the effective and visible integration of women into all fields of social, economic and political life and in the development of the country. The Committee requests the Government to provide information with its next report on the activities of the Institute as they relate to the promotion of equality of opportunity and treatment in vocational training and employment.

4. The Committee notes, from the statistics on the proportion of girls in comparison with boys participating in the courses organized by the Centre for Administrative Training and Further Training (CNEFA), which were provided in reply to its previous direct request, that the number of girls is very high in branches of training directed towards subordinate functions with a low skills level, in which women are generally predominant, such as typists and receptionists, but that their number is very low in branches of training for functions with a higher level of skills and responsibility, where men are predominant, such as human resources management, administrative management, the settlement of disputes, organization and methods, etc. The Committee once again requests the Government to provide information with its next report on the positive measures taken, and the results obtained, to facilitate and encourage the access of women to training, and particularly vocational training and university education, and to particular jobs and occupations, including those traditionally reserved for men and to posts of responsibility.

5. The Committee notes the Government's statement that statistical data on the proportion of women in training and employment are not yet available. The Committee once again requests the Government to endeavour, with the collaboration of employers' and workers' organizations and any other appropriate body for the promotion of women, to compile and analyse data, and particularly statistics, making it possible to gain a better knowledge of the situation of women in respect of employment and training, and to provide them with its next report. The Committee would also be grateful to receive a copy of the national report on the condition of women in Cape Verde that the Government submitted to the Fourth World Conference on Women, held in Beijing in September 1995.

Chile (ratification: 1971)

The Committee notes the information in the Government's reports in response to its previous comments.

1. The Committee notes with interest the information regarding Act No. 19.234 of 5 August 1993 under which benefits will be granted to the workers dismissed for political reasons between the period of 11 September 1973 and 10 March 1990, in particular that the Instituto de Normalización Previsional (INP), the responsible authority, has commenced its work in allocating pensions and other benefits (a large number of applications are, however, still pending). The Committee also notes that Act No. 19.234 was amended by Act No. 19.350 of 14 November 1994 so as to expand its scope of application and to render formalities for applying for benefits more flexible. The Committee requests the Government in future reports, to continue to supply information on the practical application of the Act.

2. The Committee recalls its previous requests to the Government to provide information on progress made in two matters, namely: (a) the express repeal of Decrees Nos. 112 and 139 of 1973, Nos. 473 and 762 of 1974, and Nos. 1321 and 1412 of 1976 which grant broad discretionary powers of termination of employment to university rectors so as to preclude any ambiguity given the Government's indication that they have been tacitly repealed and are without effect; and (b) the repeal or amendment of section 55 of Decree No. 153 of 1951 (legal status of the University of Chile), and section 35 of Decree No. 149 of 1951 (statutes of the University of Santiago), in order to ensure that no one may be denied access to or expelled from universities or educational establishments on grounds prohibited by the Convention. As the most recent reports are silent on this legislation, the Committee repeats its request to the Government to provide information in its next report on legislative measures taken to bring the national legislation into conformity with the Convention as referred to above.

3. The Committee is raising other matters in a request addressed directly to the Government.

Costa Rica (ratification: 1962)

The Committee notes the comments of the Trade Union Association of Employees of the Public Customs Service dated 12 October 1995 which were transmitted to the Government on 17 November 1995. The Committee hopes that the Government will communicate its observations on the matters raised therein so that the Committee will be in a position to examine them at its next session.

The Committee is addressing a request directly to the Government on other points.

Cuba (ratification: 1965)

1. The Committee notes the Government's report and the information provided by the Government at the Conference Committee in June 1995 in reply to the points raised in its previous comments, and the ensuing discussion. In particular the Committee notes the Government's reply to the Committee's request for clarification of the role played by the Communist Party of Cuba and the trade unions in the "consultations" provided for in section 21 of resolution No. 1 of 1994 on admission to post-secondary or higher education, to the effect that only objective qualifications criteria are used in these consultations.

2. *Conditions of employment.* The Committee notes the Government's statement that the bodies of the central administration have been reorganized as provided for by Legislative Decree No. 147 of 21 April 1994, and that some of the issues raised by the Committee in its previous observations will be analysed as a result. The Committee also notes that the labour and wages law is being examined with a view to adapting it to new conditions and that consultations are being held with organizations, companies and trade unions to this end. The Committee trusts that its comments on the application of the Convention will be taken into account, in particular that posts in the administration of the State which are controlled by the Communist Party of Cuba should be restricted to certain high-level posts directly related to government policy; and that the proposed reforms will incorporate the principle of equality of opportunity and treatment in occupation and employment based on all the grounds listed in *Article 1, paragraph 1(a), of the Convention*. The Committee requests the Government to provide copies of the revised legislation when it is adopted.

3. With reference to the Latin American Central of Workers (CLAT) allegation in 1992 of the dismissal of 14 university teachers for having expressed their political opinions, the Committee notes the Government's statement that acceptance by the college of teachers and the student body is one of the "essential qualities required for teaching", and that a request had been made to the rector for the dismissal of the teachers by the assembly of workers of the institution in question following meetings by the assembly of teachers and students. According to the Government, this is an exceptional procedure under Legislative Decree No. 34 of 1980 applicable solely to members of educational institutions who come into direct contact with students; under the provisions of Legislative Decree No. 132 of 9 April 1992 which regulates the functioning of the basic labour judicial organs, there is an ordinary procedure for the dismissal (*separacion definitiva*) of workers for disciplinary reasons which involves appeals to: (a) the basic labour justice organs; and (b) the Peoples' Tribunals (section 2 of Legislative Decree No. 132). The Committee also notes that under section 4 of this Legislative Decree an appeal for review can be made to the Labour Chamber of the Supreme Court by the President of the State Committee for Labour and Social Security, or the Secretary General of the Central Organization of Workers of Cuba (Central de Trabajadores de Cuba).

The Committee recalls that the kind of discriminatory treatment suffered by the teachers, based on the expression of political opinion, is contrary to the Convention, irrespective of the body which took the decision to dismiss them. It also recalls that the legislation by virtue of which they were dismissed (Legislative Decree No. 34 of 1980) is being revised and welcomes the Government's statement that its comments will be taken into account. The Committee trusts that its previous comments concerning the need to provide effective enforcement of laws prohibiting discriminatory practices in dismissals, particularly concerning discrimination based on political opinion, will be clearly included in the revised text, and it would appreciate receiving a copy when adopted.

4. With reference to resolution No. 2 of 20 December 1989 which regulates the reinstatement of educational workers who have been dismissed under the provisions of Legislative Decree No. 34 of 1980, the Committee again recalls its concern regarding the broad terms of this legislation which could permit discriminatory practices against any worker coming into contact with students, including their exclusion from employment for a period of up to five years. The Committee again stresses that in paragraph 126 of its 1988 General Survey on Equality in Employment and Occupation "certain criteria may be brought to bear as inherent requirements of a particular job, but they may not be applied to all jobs in a given occupation or sector of activity, and especially in the public service". The Committee recalls its previous request for repeal of these legislative provisions as required under *Article 3(c) of the Convention*. Noting from the Government's statement that the labour law needs to be revised in order to bring it into line with the new conditions existing in the country, the Committee requests the Government to provide information on any progress made in this respect.

5. With reference to the evaluation of the results of the work of journalists based on the indicators listed in section 3 of resolution No. 17 of 16 November 1993, the Committee notes the Government's reliance on Annex 3 to this resolution which lists indicators for the evaluation of journalists' work. The Committee also notes from the Government's report that the evaluation of the "scope and repercussions among the public of their activities" — as required by section 3 — is achieved by means of periodic surveys of public opinion, and that this is a determining factor of whether the work of the journalist has contributed to solving or rectifying deficiencies and errors and consequently merits public recognition. The Committee asks the Government to provide further information on the modalities for conducting these public opinion surveys, including a copy of the format of questionnaire used, so that the practical use of the indicators in Annex 3 is shown to be in conformity with the principle of non-discrimination.

6. *Access to employment*. With reference to the "personal verification form" containing information on the worker's moral attitude and social conduct, the Committee notes the Government's statement that no internal rules have been issued which violate the Convention, and that measures have been taken to monitor compliance with the principle of equality in employment. The Committee again requests the Government to provide copies in its next report of the new rules, and information on any measures taken or envisaged as a result of the labour inspections, including corrective measures.

Czech Republic (ratification: 1993)

The Committee notes that the Government has submitted its first report following the entry into force of the Convention, which arrived too late to be examined at the present session.

The Committee notes also the approval by the Governing Body of the International Labour Office at its 264th (November 1995) Session of the Report of the Committee set up to examine the representation made by the Trade Union Association of Bohemia, Moravia and Silesia (OS-CMS) under article 24 of the ILO Constitution alleging non-observance by the Czech Republic of this Convention. The Governing Body Committee found that there were incompatibilities between the national legislation and the Convention, in particular with relation to the Screening Act, No. 451/1991, declared applicable in the Czech Republic following the dissolution of the Czech and Slovak Federated Republic.

The Governing Body invited the Government:

(i) to repeal or modify any legal provisions which are incompatible with the Convention;

(ii) to take the necessary measures, including appropriate appeal procedures, to enable workers who suffered discriminatory treatment within the meaning of Convention No. 111 to obtain redress, including reinsertion in their jobs in appropriate cases, whatever their sector of activity;

(iii) to try to obtain the cooperation of employers' and workers' organizations and other appropriate bodies, in accordance with *Article 3(a) of the Convention*, for the adoption and implementation of the measures recommended above and, more generally, to encourage the acceptance and application of a national policy to eliminate all discrimination within the meaning of the Convention;

(iv) to have appropriate consultation with and recourse, if necessary, to the cooperation of the Office, in carrying out the above recommendations; and

(v) to provide complete information in the reports due under article 22 of the Constitution of the ILO on the measures taken to give effect to these recommendations, in order to enable the present Committee to follow up the situation.

The Committee notes in this respect that the Government provided certain clarifications to the Governing Body when it adopted the report of its Committee. The Committee looks forward to examining, at its next session, any additional information the Government may wish to provide on the questions covered by the representation, as well as on the application of the Convention more generally.

[The Government is asked to report in detail in 1996.]

Ecuador (ratification: 1962)

1. Regarding its previous observation concerning the restriction on women entering the Stock Exchange (s. 66(c) of the Commercial Code), which is not applied and is to be examined as part of the legislative reforms, the Committee notes from the Government's report that it remains fully committed to expediting the process in the National Congress for the adoption of legal reforms to bring the national legislation into full conformity with ratified Conventions, in particular Convention No. 111. The Committee also notes that, to achieve this end, the Government has made a number of efforts for the necessary reforms of the Commercial Code and the Act on Cooperatives. The Committee requests the Government to keep it informed of progress in this respect in its next report.

2. The Committee is raising other matters in a request which it is addressing directly to the Government.

Egypt (ratification: 1960)

1. The Committee notes with satisfaction the repeal, by Act No. 221 of 1994, of Act No. 33 of 1978 on the protection of the home front and social peace (which had restricted access to senior public sector posts on religious grounds) and the amendment, by the same Act, of certain provisions of Act No. 95 of 1980 concerning the protection of values, including section 4 (which had denied access on religious grounds to

governing boards of public companies or bodies, or to posts and functions related to influencing public opinion and education of future generations).

2. The Committee recalls that it had also made comments in previous observations in relation to discrimination based on political opinion arising from section 18 of Act No. 148 of 1980 respecting the power of the press, which restricted newspaper publication or ownership on the basis of political grounds. The Committee recalls the Government's indication — in a letter of 28 January 1992 — that this Act would be repealed on the occasion of the revision of the law of the press. The Committee also notes from the Government's most recent report that the repeal of Act No. 33, mentioned above, means that the categories of persons whose right to publish or own newspapers was restricted due to their political beliefs no longer exist. The Government states that the national legislation has thus been brought into conformity with the Convention on this point. The Committee concludes from this that section 18 of Act No. 148 is consequently devoid of content and asks the Government to confirm that section 18 has no effect, and to inform it of any measures taken to remove section 18 from the press law. The Committee also asks the Government to indicate whether Presidential Decree No. 214 of 1978 concerning the principles of the protection of the home front and social peace is still in force.

3. With regard to the employment situation of women, the Committee notes that the Government denies that the Ministry of Manpower and Training had any intention to encourage women to stay at home. On the contrary, the Government encourages women to enter the labour market, with due consideration to their circumstances and providing the necessary care they need through the establishment of nurseries and the granting of child-care leave without loss of jobs. The Government adds that it will provide, in its next report, statistics on the number of secondary schools where women receive training in "household" work, and on the number of women holding high-level posts, as well as details on the Five-year Plan for Development (1992-97). The Committee looks forward to receiving this data. It repeats its request to the Government for information on measures taken in the area of vocational training irrespective of sex, particularly on vocational guidance criteria used to assess women's skills and interests in an effort to avoid stereotyping of training into "typically male" or "typically female" trades or occupations.

4. The Committee again asks for information on the adoption of the revised Labour Code, an initial version of which was completed with the technical assistance of the Office in 1994.

5. The Committee is addressing a direct request to the Government on other points.

Germany (ratification: 1961)

1. The Committee takes note of the Government's report and its annexed Länder higher court decisions and legal texts.

2. *Discrimination on the ground of sex.* The Committee notes with satisfaction the adoption, and entry into force on 1 September 1994, of the Act on the advancement of women and the compatibility of marriage and occupation in the federal administration and in the federal courts (known as the Second Equality Act). In particular, the Committee notes that federal administrative bodies and public undertakings must: issue a plan for the advancement of women every three years; compile annual statistics on the numbers of men and women in a number of areas for submission to the supreme federal authorities; draft vacancy advertisements in gender-neutral terms unless one or the other sex is an indispensable precondition for the job advertised; increase the proportion of

women in under-represented areas subject to the precedence of suitability, capability and occupational performance; encourage women's further training to facilitate career advancement; where there is a regular staff of at least 200 persons, have women's representatives (or a "confidential adviser" if no such representative) to promote and supervise the application of the new Act, including the lodging of complaints with the directorate. The Act also amends certain legislation applicable to both the public and the private sectors: it clarifies the extent of monetary compensation in civil actions based on sex discrimination; and introduces protection against sexual harassment at the workplace including a complaints procedure and the need to include sexual harassment sensitization in vocational and further training courses offered to public servants.

3. Noting that section 14 of the Act provides that the Government shall submit to Parliament every three years a progress report on the situation of women in these administrations and the courts covering the implementation of the Act, the Committee requests the Government to supply a copy of the first report when due in 1997. In the meantime, the Committee requests the Government to inform it, in its next report, of the impact of this legislation on the promotion of equality between the sexes in access to vocational training, access to employment, and terms and conditions of employment in the federal public sector, and of any cases reported under the sexual harassment provisions.

4. The Committee also notes the decision, on 17 October 1995, of the European Court of Justice in the case of ***Kalanke v. City of Bremen***, in which the Court found that national rules which automatically give women priority for promotion where candidates of different sexes are equally qualified go beyond promoting equal opportunities and overstep the limits of the exception in article 2(4) of Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion. The Committee notes that the relevant legislation contained an automatic and rigid quota of 50 per cent to be applied across all occupations including all educational and qualification levels. The Committee also notes that, in that case, the man and woman concerned had equal qualifications. Please indicate how this ruling has affected the Government's policies in this field and any action which may be proposed in respect of it.

5. *Discrimination on the ground of political opinion*. The Committee recalls the recommendations of the 1987 Commission of Inquiry that the measures relating to the civil service's duty of faithfulness to the free democratic basic order be re-examined, so that only such restrictions on employment in the public service are maintained as correspond to the inherent requirements of particular jobs within the meaning of ***Article 1, paragraph 2, of the Convention*** or can be justified under ***Article 4***. In its most recent observation on this point, the Committee asked the Government to supply information on any cases in which a public official had been dismissed or an applicant denied employment based on breach of the duty of faithfulness; and given that certain Länder had abolished systematic inquiries into the loyalty of applicants for public service jobs but still required public officials to sign the declaration of loyalty, the Committee asked for copies of any directives showing the criteria used. The Government reports that the inquiries have now been abolished in all the old Länder and at the federal level, but that applicants are instructed on the principle concerning loyalty to the Constitution and must sign the declaration. In Bavaria, the Land Government's Announcement of 3 December 1991 contains guidelines on service loyalty requirements with the declaration as an annex and in that Land, between 1 July 1990 and 30 June 1994, nine applicants were rejected for insufficient loyalty, five legal trainees who were refused the status of civil servant were nevertheless allowed to complete their training, and there were no dismissal cases.

6. Moreover, it takes note of the decision of 26 September 1995 of the European Court of Human Rights in the case of *Vogt v. Germany* which held that the Land of Lower Saxony had breached the European Convention on Human Rights when it dismissed a permanent civil servant (who was mentioned in the ILO 1987 Commission of Inquiry report on this Convention) from a teaching post in the 1980s because she was a Communist Party member. In that case, following the 1990 repeal of the Land legislation in question (Decree on the employment of extremists in the Lower Saxony civil service) and the issuing of regulations to deal with earlier cases of political discrimination, Ms. Vogt was reinstated in her post as a teacher for that Land's education authority. The Committee requests the Government to inform it of the repercussions of this decision on the employment or re-employment opportunities of dismissed civil servants, provided that they satisfy the recruitment and qualification requirements.

7. The Committee has also been examining for a number of years the discriminatory nature of paragraphs 4 and 5 of Annex I of the German Reunification Treaty, Chapter XIX, section III, which had allegedly been used to dismiss public servants — in particular teachers — of the former GDR on the ground of their political opinion and activities. Paragraph 4 of the Treaty provides, inter alia, that ordinary termination of a work relationship in the public service is permissible if the worker does not meet the requirements, owing to inadequate specialist qualifications or personal unsuitability. Paragraph 5 provides that extraordinary termination of the work relationship is permissible based on serious reasons which exist when the worker: (1) has violated the principles of humanity or of the rule of law, especially the human rights guaranteed in the International Covenant on Civil and Political Rights or has violated the principles contained in the Universal Declaration of Human Rights; or (2) has been active for the former Ministry for State Security or the Department of National Security, and a continuation of the work relationship thereby appears unacceptable. The Committee notes with interest the Government's confirmation that paragraph 4 ceased to have effect as of 31 December 1993 and that there have been no dismissals under that provision subsequently.

8. The statistics supplied by the Government for paragraph 4 dismissals in the new Länder when it was in force show that: in Mecklenburg-Western Pomerania there were 1,090 notices of dismissal; in Saxony, there were about 4,800 notices of dismissal; in Brandenburg, 456 notices. It also notes from the copies of appeal court decisions supplied that, in some cases, dismissal under paragraph 4 was confirmed on the basis that a liberal constitutional state could not tolerate former Communist Party and state functionaries as its representatives unless they placed their dissent on record or relinquished their position of the time, thereby indicating that they had severed their links at that time with the former regime. In other cases the dismissal was revoked given that the facts proved the personal suitability of the public servant for the current post. The Committee would appreciate being kept informed of the number of appeals which succeed or fail in these, and in other new Länder.

9. Regarding paragraph 5's provision of extraordinary termination of the work relationship for serious reasons when the worker: (1) has violated the principles of humanity or of the rule of law; or (2) has been active for the former Ministry for State Security or the Department of National Security, the Committee recalls its hope that use would be made of this provision only in accordance with *Article 1, paragraph 2, or Article 4, of the Convention*. The Committee notes the Government's repeated assertion that this provision does not contravene the Convention and that the Government relies on Article 1, paragraph 2, of the Convention, arguing that persons who had supported

the former unjust system are not suitable for employment in a state under the rule of law and the Convention should not be used to protect them. The statistics provided show that: in Mecklenburg-Western Pomerania there have been 512 dismissals; in Saxony, 860; in Brandenburg, 439. From the appeal court ruling supplied it appears that the paragraph 5 dismissal was upheld given the inherent requirements of the post. The Committee would again appreciate being informed of the outcome of any pending appeals.

10. The Committee recalls in this connection the Commission of Inquiry's recommendation that it is important not to attribute excessive importance to activities undertaken at a time when applicants were not bound by any public service relationship and to provide an opportunity for them to demonstrate, once they are in such a relationship, that they will respect the obligations attaching thereto.

11. With regard to its request for information on any programmes for vocational training or retraining of officials who had been dismissed from public service as a result of paragraphs 4 or 5 of Annex I of the Reunification Treaty, the Committee notes that the Government provides a copy of the Land of Brandenburg's directives for the granting of "interim assistance" for training and for establishing a means of livelihood for such persons; whereas it states that three Länder (Mecklenburg-Western Pomerania, Saxony and Thuringia) have announced that such measures have not been introduced. The Committee asks the Government to inform it of any developments in the approach of these Länder to this issue.

12. Concerning the old Länder in the western part of the country where similar criteria to paragraph 5 of Annex I of the Reunification Treaty have been adopted in the form of announcements and guidelines for civil service employment, the Committee had requested more information on the application of the Bavarian Announcement of 3 December 1991 and examples of other recent texts of other Länder, including the questionnaires which civil servants or applicants were required to sign. The Committee notes from the various texts provided (Baden-Wurtenburg, Bavaria, Hesse, Mecklenburg-West Pomerania, Rhineland-Palatinate, Saxony, Schleswig-Holstein and Thuringia) that civil service applicants are to be informed in writing of the obligation of allegiance to the Constitution, and the authority responsible for appointments must proceed to establish the allegiance, failing which, based on the facts available or the applicant's refusal to sign the declaration of loyalty annexed to the written notice, the applicant shall be refused employment. According to some of the texts, for applicants from the new Länder, the examination of constitutional allegiance requires additional verification of: (1) whether they were involved in violations of the principles of humanity or the rule of law; (2) whether they carried out official or unofficial functions for the Ministry of State Security or the Department of National Security; and (3) whether they had held senior posts in the former GDR system in particular in the Socialist Unity Party (SED) and in mass organizations linked to political objectives.

13. The Committee would appreciate receiving information on how these various state-level texts are being implemented in practice so that discrimination on the basis of political opinion is not possible both in entry to the Länder public services and in the terms and conditions of employment of civil servants.

14. The Committee is addressing a request directly to the Government on other points.

Ghana (ratification: 1961)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read, in the pertinent part, as follows:

> 1. The Committee notes the entry into force, on 7 January 1993, of the new Constitution of 28 April 1992, and the new Civil Service Act of 1 January 1993.
>
> [...]
>
> 3. The Committee requests the Government to inform it how the present security situation is affecting the application of the Convention in practice throughout the country.
>
> 4. The Committee is addressing a request directly to the Government on certain other points concerning the new Constitution and the Civil Service Act.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Guatemala (ratification: 1960)

1. *Discrimination on the ground of sex.* The Committee has been raising for several years the discriminatory nature of section 114 of the Civil Code which regulates the manner in which a husband may oppose his wife's employment provided he earns enough to maintain the household and which has not been repealed. The Government has replied, as it again does in its most recent report, that this norm has been functioning without generating any controversy, that it is in conformity with national practice and custom, and in accordance with "the idiosyncrasies of the Guatemalan people". According to the Government, however, the number of wives who work is increasing.

2. Recalling its previous requests for information on the repeal of such discriminatory legislative provisions announced in the Government's 1988 report as a conclusion arising from a National Seminar on Women held that year, the Committee urges the Government to take the necessary steps to bring the national legislation into conformity with *Article 3(c) of the Convention* which requires the Government to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy of equal opportunity.

3. The Committee is also addressing a direct request to the Government on other points.

Guinea (ratification: 1960)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Committee notes with interest the Government's statement in reply to its previous observations that all the usual codes and other texts (decrees, orders, decisions, collective agreements) are currently being examined with a view to their harmonization with the Fundamental Act of 23 December 1990 and ratified international instruments. It adds that the new public service regulations are currently being finalized with a view to the harmonization of the former provisions with those adopted recently since the political changes in April 1984. The Committee would be grateful if the Government would supply detailed information in its next report on the progress achieved in this regard and if it would provide the text of the codes, decrees, orders, decisions and collective agreements which are currently being harmonized with the Fundamental Act and the Convention, as soon as they have been adopted, and in particular the new text governing the public service which, it appears, will amend Ordinance No. 017/PRG/SGG of 5 March 1987.
>
> 2. The Committee is addressing a request directly to the Government on other points.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Hungary (ratification: 1961)

In its previous direct request, the Committee had asked for information on the implementation of section 2 of the Employment Promotion Act (No. IV) of 1991, as amended, which bans discrimination in the promotion of employment while allowing "additional rights" for persons in a disadvantaged position in the labour market. The Committee had also requested general information on the implementation of the national policy against discrimination in (a) access to vocational training; (b) access to employment and particular occupations; and (c) terms and conditions of employment, including detailed statistics particularly on ethnic minorities. The Committee notes with interest from the Government's report the numerous measures now under way to enable persons with employment problems, in particular Gypsies who constitute the largest group of unemployed with poor qualifications, to have *access to employment and to particular occupations*, and to *education and training*, which are examined in more detail in the direct request being addressed to the Government.

Islamic Republic of Iran (ratification: 1964)

1. The Committee takes note of the Government's reports and the statistics supplied on men's and women's labour market participation in urban and rural zones, as well as of the information supplied by the Government representative in the Conference Committee in 1993 and the discussion which followed.

2. The Committee has also taken note of various United Nations documents concerning the Islamic Republic of Iran of relevance to this Convention (including the General Assembly Note "Situation of Human Rights in the Islamic Republic of Iran" (A/48/526 of 8 November 1993) and its resolution 49/202 adopted on 23 December 1994; the Commission on Human Rights Special Representative's Reports (the most recent being E/CN.4/1995/55 of 16 January 1995) and that Commission's resolution 1994/73 adopted on 9 March 1994; resolution 1995/18 of 24 August 1995, adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities; the Summary Record of the Committee on Economic, Social and Cultural Rights (E/C.12/1993/SR.8 published on 20 December 1993) and its concluding observations (E/C.12/1993/7 of 9 June 1993); as well as the Summary Record of the 43rd Session of the Committee on the Elimination of Racial Discrimination (CERD/C/SR.1990 of 22 October 1993)) all of which attest to continuing discrimination generally and in employment on the basis of religion and sex.

3. *Discrimination on the basis of religion.* The Committee notes from the abovementioned UN documents that the situation of the Baha'i has not improved in the domains of access to higher education and to employment and terms and conditions of employment. The Government, on the other hand, has stressed in its reports, at the Conference Committee and in various UN fora, that:

- under the statutory provisions for the public sector there can be no discrimination in employment based on conviction and that in practice there have been no dismissals;
- the Social Security Act provides for pensions without any discrimination (the extracts of the Act on Transfer and Conveyance of Insurance or Pension Contributions, supplied by the Government, do not contain references to non-discrimination, but the Government does supply a copy of one Social Security Organization decision

requiring the relevant Minister to give a clear ruling with reasons in the matter of authorizing a pension benefit despite the fact that the claimant belongs to the Baha'i sect);

- the Trades Regulation Act and the Regulations issued thereunder likewise deal with issuance of business permits and closure of businesses treating all nationals equally (the Government supplies a copy of a decision of the Ministry of Agriculture instructing the Ministry of Labour and Social Affairs to permit Baha'i agricultural workers to join village cooperative societies "in accordance with current decisions of the State and with the basic law" and a copy of the Act on the Cooperatives Sector of the Economy which lists simple membership rules);
- no law bars their access to educational and training institutions and in practice there had been no closure of Baha'i classes in January 1991 (the Government supplies a copy of the Ministry of Education and Training guidelines issued to directors of schools according to which Baha'i students who register as such shall have no action taken against them, whereas activist Baha'i students are to be summoned, asked to make written statements and the complete details including place of study and residence are to be sent to the security office of the general administration);
- the 1991 circular of the Supreme Revolutionary Cultural Council allegedly aimed at blocking the progress and development of Baha'is has never been issued and does not exist (the Government supplies a copy of correspondence between the "Committee on section 90 of the Basic Law" and the President's Office requesting the official position on the 1989 Directive No. M/11/4462 which proscribes the denial of rights to citizens unless, inter alia, they have been recognized as spies, without it being clear what the official position is for Baha'is, whom — as noted in previous observations — are often accused of being spies).

4. The Committee notes the copy supplied by the Government of Prime Minister's Circular No. 4114462 which, it states, repeals the Ministry of Labour and Social Affairs directive of 8 December 1981 (ordering courts to withhold judgements in favour of dismissed Baha'is) and replaces it. Please provide information on the practical application of this circular, in particular information that would allow the Committee to assess whether dismissed Baha'i employees enjoy equality of treatment in employment irrespective of religion. The Committee also expresses its concern at the lack of progress concerning repeal of the discriminatory provisions in the above-mentioned 1989 Directive No. M/11/4462, since the copies provided by the Government do not clarify the official position.

5. The Committee observes that the Iranian representative stated during the May 1993 Session of the UN Committee on Economic, Social and Cultural Rights that "As to the Baha'is, they were not victims of any discriminatory measures, even if an occasional unfortunate case might have been reported here or there. [...] Whatever they might claim to the outside world, the Baha'is despised the Muslims who, for their part, were not very well disposed to them either." That UN Committee concluded that it still had concerns about violation of the rights of the Baha'i community in particular the ban on their admission to universities. In view of all the foregoing, the Committee again requests the Government to take the necessary measures with regard to the Baha'is, in accordance with *Article 2* of the Convention, to declare and pursue a national policy to promote equality of opportunity and treatment without discrimination on the ground of religion.

6. With regard to the closing of business and denial of employment to followers of the Zoroastrian faith and Freemasons, the Committee notes that the Government

representative at the Conference Committee repeated that Freemason organizations had terminated their activity in the country, and denied that Zoroastrians suffered discrimination, his Government being willing to examine any alleged case. The Committee would appreciate the Government supplying information in future reports on the equality in employment of persons belonging to these two groups irrespective of their religion.

7. Recalling its previous request for details on the number of members of religious minorities who hold positions in the judiciary, the Committee notes that, according to the Government, the national Constitution requires the judicial body to arrange courts according to the rites and religious regulations when the issue concerned civil statutes, and that in localities where the majority of the population is non-Shiite Muslim, some special civil courts have been established. The Committee had already noted that an Act of 14 May 1982 giving effect to article 163 of the Constitution prescribed, for the selection of judges, that they profess the Islamic faith and enjoy qualifications in Islamic law or theology. The Committee also recalls that section 6 of the 1991 Labour Code provides that "every person has the right to freely choose an occupation, provided that such occupation is not inconsistent with Islam, public interests and the rights of others". As no data has been received which would allow the Committee to examine whether equality of access to the judiciary irrespective of religion exists, the Committee refers the Government to paragraph 125 of its 1988 General Survey on Equality in Employment and Occupation where the concept of non-discriminatory inherent requirements of a job is explained. The Committee stated there that "the promotion of equality of opportunity and treatment envisaged by the Convention requires that access to ... employment and occupation be based on objective criteria defined in the light of academic and occupational qualifications required for the activity in question. ... [T]he exception allowed for in *Article 1, paragraph 2, of the Convention*, must be interpreted strictly, so as not to result in undue limitation of the protection which the Convention is intended to provide." In paragraph 127 of the same survey, it stated that "criteria such as ... religion may be taken into account with the inherent requirements of certain posts involving special responsibilities, but that if this were carried beyond certain limits, this practice comes into conflict with the provisions of the Convention". The Committee would therefore again ask the Government to clarify the situation of religious minorities' access to the judiciary, providing, in particular, statistics on the number of serving judges.

8. Recalling its request for clarification of the legislative provisions requiring that candidates for election to Islamic Labour Councils must be practising Muslims, followers of the "Velayat Faghig", or members of the Jewish, Christian or Zoroastrian minorities, the Committee notes that, according to the Government representative at the Conference Committee, membership of these councils is not a profession but of an advisory nature and that the councils prepare programmes and coordinate the progress of workshops with the participation of workers and employers. The Government's report adds that the councils are to provide coordination between employers' and workers' representatives to improve enterprise affairs. Noting the role of these councils, the Committee consequently is of the opinion that the practice of one particular religion does not appear to be an inherent requirement for membership of them. The Committee therefore considers that the reasons for excluding persons who do not meet these criteria are not covered by Article 1, paragraph 2, of the Convention and therefore constitute discrimination on the ground of religion. The Committee asks the Government to reconsider the 1985 Act on Islamic Labour Councils so as to bring it into conformity with the Convention.

9. *Discrimination on the basis of sex.* The Committee observes that, according to the UN Special Representative, the situation of women has not changed from that noted in his interim report, where he stressed inequalities between men and women affecting the general status of women in society. The Committee recalls in this connection that equality in employment cannot be fully achieved within a general context of inequality. Inequality in social status inevitably results in inequality of treatment and above all in inequality of opportunity in employment (paragraph 239 of the 1988 General Survey).

10. Following this general comment, the Committee also observes that the Committee on Economic, Social and Cultural Rights expressed "particular concern" at its above-mentioned May 1993 meeting over the lack of equality between men and women in the enjoyment of all economic, social and cultural rights, in particular since women are not permitted to study engineering, agriculture, mining or metallurgy or to become magistrates, are excluded from studying a very large number of specific subjects at university level, and need their husbands' permission to work or travel abroad. It came to this conclusion despite the Government's statement that "women could exercise every profession. According to recent statistics, 443,840 women exercised a profession and 45 per cent of them held a specialized post. Twenty per cent of lawyers were women. No restriction was imposed on women concerning the choice of profession" (Summary Record).

11. In this connection, the Committee welcomes the decree of the Minister of Higher Education declaring university admission for women to be free and cancelling the limitation on the number of female university candidatures. However, the Committee notes that the human resources statistics supplied by the Government do not throw light on any progress in the pursuit of a national policy to promote equality of opportunity in employment and occupation irrespective of sex. The Committee notes, as regards the ban on women becoming judges, the Government representative's statement to the Conference Committee that women could obtain "various judicial positions" according to their judicial rank without restrictions based on sex, and that the Government and the judiciary were determined to promote the participation of women in judicial activities, there being more than 250 women attorneys. The Committee welcomes the Bill, signed by the Minister of Justice on 19 April 1993, to amend the Act on Appointments to the Judiciary so as to allow qualified women to be appointed as judges. The Committee requests the Government to provide information in its next report on the passage of this Bill and on the number of women judges and magistrates and women in "various judicial positions".

12. *General measures concerning equality.* Recalling its comments on the need to expand section 6 of the 1991 Labour Code to cover all the circumstances set out in *Article 1, paragraph 1(a)*, of the Convention, the Committee notes that, according to the Government representative at the Conference, this section, having originated in the constitutional equality provisions, does cover all the ground listed in the Convention, including religion, political opinion and social origin. However, according to the Government's report, this is not an exhaustive list, and has been expanded in practice to cover religion, opinion and ethnic origin. The Committee, recalling the principle explained in the 1988 General Survey (paragraph 58) that where provisions are adopted to give effect to the Convention, they should include *all* the grounds of discrimination laid down in this Article, requests that the Government supply in its next report copies of cases where section 6 has been expanded so as to ensure protection against discrimination in employment and occupation on grounds not appearing in the text of the Labour Code.

13. Towards the end of its session, the Committee received a communication from the World Confederation of Labour, dated 4 December 1995, alleging discrimination in the labour market on the bases of sex, religion and political opinion. The Government has been sent a copy of this communication for its comments. The Committee intends to examine this matter at its next session.

14. The Committee is addressing a direct request to the Government on certain other points.

Nepal (ratification: 1974)

1. In its previous direct requests, the Committee noted that the 1990 Constitution provides, in article 11, that no citizen is to be discriminated against on grounds of religion, race, sex, caste, tribe or ideology. The Committee had pointed out, however, that under the Convention, the protection against discrimination based on political opinion goes beyond the scope of opinion based on ideology and encompasses any opinion for or against a particular political system or policy, independently of any ideological views. Accordingly, as it has done on previous occasions, the Committee expresses the hope that the Government will consider making specific provision to prohibit discrimination in employment and occupation also on the basis of political opinion, as provided in *Article 1, paragraph 1(a), of the Convention*.

2. The Committee had also noted, in comments made over a number of years, that certain provisions of the Civil Service Act, 1956, and of the Civil Service Regulations, 1965, appeared to permit discrimination in employment on the basis of political opinion by providing that civil employees (defined as "any person holding office in any post of the civil service") may be removed or dismissed from service for, inter alia, participating in politics; or for acting against the Panchayat [partyless] system. The Committee had indicated that, although it may be admissible for the responsible authorities to bear in mind the political opinions of individuals in the case of certain higher-level posts which are concerned directly with implementing government policy, it is not compatible with the Convention for such conditions to be laid down for all kinds of public employment in general. The Committee had observed that, in protecting workers against discrimination on the basis of political opinion, the Convention implies that this protection shall be afforded to them also in respect of activities expressing or demonstrating opposition to the established political principles, since the protection of opinions which are neither expressed nor demonstrated would be pointless. The Committee recalled that the protection afforded by the Convention is not limited to differences of opinion within the framework of established principles: therefore, even if certain doctrines aim to bring about fundamental changes in the institutions of the State, this does not constitute a reason for considering their propagation beyond the protection of the Convention, in the absence of the use or advocacy of violent or unconstitutional methods to bring about their result.

3. The Committee had noted with interest that the 1990 Constitution provided for the abolition of the Panchayat system. The Committee continued, however, to request the Government to indicate whether the above-mentioned texts which prohibited civil servants from participating generally in politics were still in effect. In its latest report, the Government states that the Civil Service Act, 1956, and the Civil Service Regulations, 1965, were repealed and replaced by the Civil Service Act, 1993, and the Civil Service Regulations, 1994, which do not incorporate similar provisions. The Committee regrets to note, however, that the prohibition on civil servants participating in politics has, in fact, been maintained in the 1993 Civil Service Act. According to

section 61 of the Act, a civil employee (defined, as in the earlier texts, as "any person holding office in any post of the civil service") may be removed from service in case he participates in politics (although this does not constitute a disqualification for government service in the future). The Committee also notes that a similar prohibition is contained in other legislation. The Municipality (Working Arrangements) Regulations, 1993 – which govern the staffing arrangements and functions of municipal employees – provides, in section 21(b), that an order for the removal or dismissal of an employee of the municipality from its service may be issued in case he participates in politics. Similarly, under section 42(b) of the Village Development Committee (Working Procedures) Rules, 1994, an order may be issued to remove or dismiss any employee from service in case he takes part in politics.

4. Referring to its explanation concerning the limitations which should be placed on a ban to participate in politics, outlined in paragraph 2 above, the Committee expresses the firm hope that the Government will take the necessary measures to bring all relevant legislation into line with the Convention; and that details will be furnished on the means being taken or contemplated in this regard, in its next report.

5. The Committee is raising other points in a request addressed directly to the Government.

New Zealand (ratification: 1983)

Further to its previous observation, the Committee notes with interest the detailed report and annexed documents provided by the Government on the measures taken to apply the Convention. The Committee has also noted the comments of the New Zealand Employers' Federation (NZEF) and of the New Zealand Council of Trade Unions (NZCTU).

1. *Legislation.* In its previous comment, the Committee noted that the 1993 Human Rights Act exempts the Government from the prohibition on discrimination on the grounds of disability, age, political opinion, employment status, family status or sexual orientation until 1 January 2000 (sections 151 and 152 of the Act). The Government states that it has embarked upon a coordinated process of consultation with a wide range of government departments and agencies, to address the potential impact of the Act's new grounds of prohibited discrimination in the areas concerned; and that close consultation is being maintained with the Human Rights Commission, which must determine before December 1998 whether legislation, government policies and administrative practices conflict with the Act or infringe its spirit or intention. The Government also sets out the different legislation presently protecting public employees, which contain *"good employer"* (a personnel policy for fair and proper treatment of employees in all aspects of their employment) provisions, including the obligation to develop and implement equal employment opportunities (EEO) programmes. The NZCTU states that these provisions do not provide for an individual right and remedy, that there is little enforcement of or accountability in respect of these obligations, and that no sanctions are administered for failure to comply. Commenting on the annual report of the State Services Commission on EEO progress up to June 1994, the NZCTU states that there is an overall lack of serious commitment to the implementation of EEO. The Government indicates that the monitoring process is being revised currently to improve various aspects, including the length of the evaluation process. The Committee requests the Government to provide copies of the 1995 annual report and to indicate whether, in addition to the monitoring and reporting functions described in the Government's previous report, the EEO team of the State Services Commission also

proposes to government departments any specific action that might be taken to improve the implementation of their EEO strategies. The Committee has noted, in this regard, that the annual reports for 1993 and for 1994, supplied by the Government, disclose a static or deteriorating employment situation for some groups of employees (for example, an increasing gender wage gap; and lower representation of persons with disabilities and to some extent of ethnic groups).

2. In its previous comment, the Committee drew attention to the fact that the exemption under section 151 of the Human Rights Act encompasses the ground of political opinion, which is one of the prohibited grounds of discrimination specified expressly in the Convention, and requested information on the protection and avenues of redress afforded to persons who consider themselves discriminated against on this ground by measures taken by or on behalf of the Government until the year 2000. The Government refers to the 1990 Public Service Code of Conduct, developed under the State Sector Act, 1988, which requires certain standards of behaviour for public servants, of which political neutrality is an integral part. The Government states that, in practice, political neutrality covers public or individual comment which is openly supportive or critical of Government policy, private communications with Ministers and members of Parliament, political participation and the release of official information. The Government further states that the relevant provisions of the Human Rights Act must be balanced by the requirement for political neutrality, in accordance with the above-mentioned Code. Having noted the principles contained in the Code, the Committee requests the Government to indicate whether, in practice, complaints about discrimination on the ground of political opinion have been made either by persons applying for entry into the public service or from established employees.

3. In its previous comments, the NZCTU expressed concern over the fact that a number of the grounds of discrimination proscribed by the Human Rights Act are not contained in the Employment Contracts Act, 1991, although it acknowledged that complaints based on those omitted grounds might succeed under the "unjustified action" head of the personal grievance procedure provided for in the Employment Contracts Act. The NZCTU reiterates its concern over the lack of generally applicable legislation that actively promotes equality of opportunity. The Committee notes that the Employment Tribunal has held subsequently that, while its jurisdiction in relation to complaints of discrimination is confined to the grounds set out in the Employment Contracts Act, it can hear evidence of discrimination on other grounds, in support of a claim of unjustifiable dismissal or of unjustifiable disadvantage (*Pooley v. New Zealand Society for the Intellectually Handicapped*, AT 102/95). The NZCTU states that it remains concerned over the uncertainty of this situation which may deter many from seeking redress. The Committee hopes that the Government will continue to provide information on the outcome of any cases pertinent to the Convention that might occur in the future.

4. *Enforcement and promotion.* The Government provides detailed information about the efforts being undertaken to enforce and promote equal employment opportunities. In respect of these, the NZCTU states that, although the Government has referred to some 49 different labour market interventions as promoting equality, most of these programmes are not aimed specifically at improving equality for disadvantaged groups. The NZCTU adds that 16 of these interventions are based on the presumption that the barriers to equal opportunity and participation are due to an individual's lack of skills, experience, training, qualifications, motivation or confidence. The NZCTU also reiterates its previous comments concerning the level of funding for, and the effectiveness of, both the Joint Equal Employment Opportunities Trust and the Equal Employment Opportunities Contestable Fund. The Committee requests the Government

to indicate whether it is considering increasing the resources of the Fund to meet the needs.

5. As concerns the NZCTU's previously expressed concern over the lack of success in negotiating EEO provisions into collective employment contracts, the Government states that, as of June 1995, 40.1 per cent of employees on the Department of Labour's database were covered by collective contracts containing EEO provisions and 53 per cent of these contracts were from the private sector. The Committee welcomes this development and hopes that the Government will continue to provide similar information in its future reports.

6. Among the new initiatives reported by the Government, the Committee notes with interest the proposals of the Prime Ministerial Task Force on Employment (which included representatives of the NZCTU and the NZEF), published in November 1994. In June 1995, these proposals were considered by representatives of the major political parties (in the Multi-Party Group). The Committee notes that the proposals include commitments to developing a strategy to eliminate Maori disadvantages in the labour market and to expanding the strategy which tailors assistance measures to the individual requirements of jobseekers, a measure specifically targeted at Maori, Pacific Island peoples, women and persons with disabilities.The Committee hopes that the Government will provide information on the implementation of those proposals which are relevant to the application of the Convention.

7. Further to its previous direct request regarding discrimination against workers with disabilities, the Committee notes that the Disabled Persons Employment Protection Act, 1960, is currently under review. According to the Government, a working group is developing a consultation document which will be discussed with interested organizations, including the NZCTU and the NZEF. The Committee is pleased to note that the NZCTU's concern that measures be taken to integrate disabled persons into mainstream employment appears to be shared by the Government. The Committee asks the Government to indicate the outcome of this consultation. The Committee also notes the information concerning measures to promote employment for persons with disabilities, including the number of placements made by the New Zealand Employment Service. As concerns the NZCTU's previous comment on the lack of statistical data on people with disabilities in employment, the Government states that Statistics New Zealand is currently planning a nationwide survey on people with disabilities. The Government also refers to the Health and Disability Commissioner Act, 1994, and to the Code of Consumer Rights being developed by the Commissioner, which will include services to facilitate and support workers with disabilities in employment. The Committee asks that such information continue to be provided in future reports.

8. The Committee notes from statistics provided by the Government that all groups except Maori women have experienced decreased rates of unemployment since the last reporting period. The Government also notes that males continue to be over-represented in certain industries (for example, agriculture, manufacturing, building and construction) and as legislators, administrators and managers. The NZCTU states that the long-term trend towards equal employment status for women has been frozen and that the level of women's participation in the labour market lags behind that of men by 20 percentage points and has remained static for eight years. On this question, the NZEF states that the term "over-representation" suggests that the difference has a deliberate element, whereas employers often experience a lack both of women applicants and of suitably qualified women applicants for work in non-typical areas of employment. The NZEF adds that women are not so much denied employment in non-typical areas as they choose to work in other areas where they are qualified or prefer to work, a state of affairs which also

prevails in very many other countries. The Government acknowledges that women's employment participation continues to be an issue in the country, as elsewhere, and considers that state initiatives are only one part of a complex array of variables which influence the situation. The Government, however, maintains its commitment to implementing policies to promote greater equality in employment for women, Maori, Pacific Island people and other disadvantaged groups in the labour market.

9. As concerns the effectiveness of its programmes to promote equality, the Government states that ongoing monitoring and evaluation are standard features of publicly funded initiatives. While recognizing that particular groups continue to be significantly disadvantaged, the Government states that it continues actively to explore ways of addressing these issues. The Committee appreciates the Government's commitment to promoting equality in employment for disadvantaged groups. It asks the Government to continue to report on the results of its monitoring and evaluation of programmes and hopes that the experience of the social partners will be taken into account in these activities. On this question, the Committee notes from the report that tripartite consultation was emphasized in relation to the Prime Ministerial Task Force on Employment and in some other programmes and projects. This is important in relation to the NZCTU's comments concerning the marginalization of unions in relation to the promotion of equality.

The Committee trusts that the social partners will continue to explore ways of enhancing their consultation and collaboration to further the implementation of the Convention.

Pakistan (ratification: 1961)

1. In previous observations, the Committee has raised a number of concerns about the application of the Convention. These concerns were also the subject of comments by the Pakistan National Federation of Trade Unions and by the All-Pakistan Federation of Trade Unions in 1993 which emphasized the need for the Government to take measures to give practical effect to the Convention and particularly to eliminate discrimination on the basis of religion, promote equality of opportunity, especially for women workers, and to increase the awareness of all categories of society in this respect. The Committee notes the information contained in the Government's report, which was also supplied to the Conference Committee in 1995. The Committee also notes the statement of the Government representative to the Conference Committee rejecting the unions' assertions concerning discrimination on the bases of religion and sex.

2. *Equality on the ground of religion.* For a number of years, the Committee has drawn attention to the provisions of the Anti-Islamic Activities of the Quadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, 1984 (No. XX) which provides for sentences of imprisonment for up to three years for these religious groups for, inter alia, propagating their faith (section 3(2)). Considering that this type of sentence could affect employment, the Committee has requested the Government to reconsider the Ordinance and any administrative measures relating to employment which affect the members of religious groups and to ensure, in law and in practice, compliance with the Convention. The Committee has also referred to allegations of dismissal or discriminatory termination of the employment of members of the Ahmadi/Quadiani communities serving in the public service and the armed forces, and has continued to request statistics on the number and percentage of Ahmadis serving in the administration and the armed forces, as well as on any cases of dismissal, including the grounds for any such dismissals. In addition, the Committee has stated that a declaration asserting the

founder of the Ahmadi/Quadiani movement to be a liar and an imposter, which must be signed before a passport is issued, denies those who refuse to sign the declaration the opportunity to seek employment abroad.

3. The Government asserts that the restraints imposed on the Ahmadis by Ordinance No. XX are not onerous because they concern only the public exercise of certain practices: religious practice can be observed so long as this is done in private, without causing affront to Muslims. The Government refers again to the constitutional provisions which provide safeguards against discrimination on the grounds of race, religion, caste, sex, residence or place of birth (article 27) and which impose the obligations on the State to safeguard the legitimate rights and interests of minorities. The Government also reaffirms that, in July 1993, the Supreme Court ruled that Ordinance No. XX was not *ultra vires* the Constitution. The Government states that minorities are treated both justly and generously by the Government. As concerns employment in the armed forces, the Government states that under section 10 of the Pakistan Army Act every citizen has the right to join the armed forces and that adherence to a particular religion has never been a prerequisite for service: many minorities, including Ahmadis, are serving in the armed forces in accordance with their quota and with the Constitution. The Government states that it does not consider relevant the Committee's request for statistics regarding the number and percentage of Ahmadis serving in the army.

4. In relation to employment in the federal civil service, the Government again states that 6 per cent of all vacancies, other than those filled by merit quota, are reserved for the scheduled castes in order to provide an incentive to eliminate their economic and social backwardness. It adds that some members of the Ahmadi community hold important positions in the civil and military services of the country and that no Ahmadi has been dismissed from government service on religious grounds. The Government provides information on the number of parliamentary seats reserved for minorities, including the Ahmadis, and offers to supply data on minorities once the forthcoming census is completed. In addition to the Advisory Council for Minorities (which meets annually to advise the Government on matters concerning the welfare of minorities), the Government has introduced the Cultural Awards Scheme to promote and preserve the cultural heritage of minorities. The National Commission for Minorities, established in 1993 to examine problems and to make recommendations for action, has established three committees: the Rules and Procedures Committee, the Committee on Education and the Committee on Legislation, the last-mentioned of which is to examine the laws reported to be discriminatory as regards minorities. According to the Government, a programme is also being undertaken in the Ministry of Law and Justice to reform and update the personal laws of minorities and to examine the issue of the delimitation of minority constituencies for the national and provincial assemblies.

5. As concerns the declaration on the passport form, the Government points out again that, as Ahmadis continued to "pose as Muslims", it became necessary to prevent non-Muslims from obtaining passports indicating their religion to be Muslim; and the declaration has proved to be a deterrent differentiating Muslims from Ahmadis. As it has stated on previous occasions, the Government considers that this matter has no relevance with regard to employment opportunities on the basis of religion, as the Ahmadis who are willing to migrate for employment are required simply to indicate their religion on the passport application form, in which case they are not required to sign the declaration: they are then issued passports like other citizens and hence the Convention is not contravened.

6. The Committee notes the discussion of this matter by the Conference Committee, which considered that Ordinance No. XX and the rules for the issuance of passports had

serious implications for religious discrimination and advised the Government to avail itself of the technical assistance of the Office. The Committee recalls, as did the Conference Committee, that the Pakistan Human Rights Commission had recommended, in January 1994, that measures be taken both to ensure in practice the constitutional guarantee to every citizen to profess, practise and propagate his religion in full freedom and to move the Supreme Court for a review of its majority ruling on Ordinance No. XX.

7. The Committee regrets that the Government considers as irrelevant its request for statistics on the number and percentage of Ahmadis serving in the armed forces and the public service, more particularly as the Government has stated that minorities are employed in these areas in accordance with fixed quotas, which would suggest that such data are collected. Accordingly, the Committee hopes that the Government will reconsider its position on this matter. In these circumstances, the Committee must urge the Government to reconsider Ordinance No. XX and ask that it will take the necessary measures to guarantee freedom from discrimination on the ground of religion, both in law and in practice, in all aspects of employment. The Committee also hopes that its comments, as well as those of the Conference Committee, will be brought to the attention of the National Commission for Minorities, where consideration could be given to the measures to be taken to bring national law and practice into compliance with the provisions of the Convention. The Committee requests the Government to provide information on the activities of the Commission in this respect.

8. *Equality on the ground of sex.* The Government states that although gender equality is guaranteed constitutionally and legally, this equality is not reflected in practice, due to the socio-cultural constraints that have endured for centuries. The Government refers to the Seventh Five-Year Plan (1988-93) which contained a range of measures to improve the low status of women and to accord them equality of opportunity in education, health, employment and in other spheres of life. Reference is made in the report to the projects sponsored by the Ministry of Women's Development and to the special credit facilities arranged for women through the First Women Bank. As concerns the amendment of legislation considered discriminatory, the Government indicates that the recommendations of the Legal Rights Committee have been pursued with the agencies concerned. Information is also provided on the creation of five women's study centres in various universities. A draft First National Policy for Women, being prepared by the Ministry of Women's Development, in collaboration with the ILO and UNICEF, will, according to the report, be discussed at seminars and at workshops at both the regional and national levels and will be announced after approval by Cabinet.

9. The Committee asks the Government to provide information, in its next report, on the impact of these various initiatives and, in particular, on the specific measures taken or contemplated to amend legislation which has a discriminatory effect on women's enjoyment of equality of opportunity and treatment in employment, whether of a direct or indirect nature. The Committee also requests the Government to indicate the number of programmes to build awareness among leaders of public opinion and the public at large regarding the need to eliminate discrimination against women and about the economic and social consequences of such discrimination. In this regard, the Government is asked to indicate whether these programmes appear to have had an impact on increasing the literacy rate of girls and women which, according to figures cited during the 1995 Conference Committee discussion, appear to be very low, as compared with that of men. During this discussion, the Government had indicated that the Task Force on Labour had recommended the appointment of a special committee to formulate

recommendations on the socio-economic status of women, and the Committee requests information on any developments in this regard.

10. *Conditions in special industrial and export processing zones.* In its previous comments, the Committee noted that the question of excluding the newly established special industrial zones (SIZs) from the application of labour legislation was being examined by the tripartite Task Force. The Committee also referred to the situation in export processing zones (EPZs), which are not covered by labour legislation but where non-compulsory minimum social legislation applies, but this does not include guarantees against discrimination. The Government states that the recommendations of the tripartite Task Force concerning SIZs are being considered by the Cabinet Committee. The Committee notes, however, that while the Government provided information concerning the Karachi EPZ, the only one to have been established so far, no information was provided concerning the application of the principle of non-discrimination in that zone, which comprises 6,000 workers, of whom 80 per cent are women. Accordingly, the Committee again requests the Government to state the manner in which it ensures the application of the Convention in these zones.

11. In view of the long-standing dialogue on the application of the Convention, the Committee suggests that the Government give consideration to receiving technical assistance from the Office.

Paraguay (ratification: 1967)

The Committee notes that, according to the Government, it is taking the necessary measures to ensure compliance with the provisions of the Convention and in accordance to the indications given by the Committee of Experts regarding the national policy aimed at promoting equality of opportunity and treatment in employment and occupation as required under *Article 2 of the Convention*.

1. *Discrimination on the ground of political opinion.* The Committee notes from the Government's report that the provisions of the 1992 Constitution are supreme, prevail over any other legal texts, and (in article 88) ban any discrimination on, inter alia, political preferences. However, recalling that section 34 of the Public Employees' Statute (Act No. 200 of 17 July 1970) which states that no public official may engage in activities contrary to public order or to the democratic system established by the national Constitution might permit discrimination on the basis of political opinion contrary to *Article 1, paragraph 1(a), of the Convention*, the Committee urges the Government to take the necessary measures to repeal explicitly Act No. 200 in law as in practice, and to keep it informed of any steps taken in this regard. In this context, the Committee notes that Parliament is studying two bills, one relating to public officials and another for a new Penal Code. The Committee therefore asks the Government to provide information in the next report on the adoption of these bills, including clarification on whether the proposed new special public service law will amend the provision of the present one regarding political activity.

2. Noting the Government's reliance on legislative and constitutional provisions prohibiting discrimination on the ground of, inter alia, political opinion, in reply to its previous comments, the Committee requests the Government to provide information on specific measures taken or contemplated to guarantee effectively freedom of political opinion to all categories of workers in actual practice, and to protect them against discrimination in employment based on this ground.

Philippines (ratification: 1960)

1. The Committee notes with interest the adoption of Republic Act No. 7877 (the Anti-Sexual Harassment Act, 1995), which makes unlawful all forms of sexual harassment in the employment, education or training environment. The Committee also notes with interest the issuance of Administrative Order No. 250, which lays down the Rules and Regulations implementing Act No. 7877 in the Department of Labor and Employment (DOLE). The Committee requests the Government to provide information on the practical application of the legislation, such as any reports issued by the Committees on Decorum and Investigation, established in the DOLE, and any statistics maintained on the number of complaints received by these Committees. The Committee also asks the Government to provide information on the implementation of the project to eliminate sexual harassment, developed by the Bureau of Women and Young Workers of the DOLE, in coordination with the ILO.

2. The Committee is raising other points in a request addressed directly to the Government.

Portugal (ratification: 1959)

1. The Committee notes the comments by the General Workers' Union (UGT) alleging that, although some effort has been made to eliminate discrimination in employment and occupation in Portugal (for example by the 1979 Decree on equality of opportunity and treatment of men and women in employment and occupation), compliance with this legislation has been inadequately monitored, and there is still unequal treatment with regard to employment and occupation. The Committee also notes the Government's observations on these comments, to the effect that the social partners, including UGT, are represented on the Committee on Equality in Employment and Work (CITE) and are, thus, kept informed of its monitoring and promotional activities, as is the Committee of Experts.

2. The Committee asks the Government to continue to provide information as regards monitoring undertaken by the CITE and the General Labour Inspectorate of the compliance with the legislation relevant to the application of the Convention, commenting specifically on its frequency and extent.

3. The Committee notes the comments by the Confederation of Portuguese Industry (ICE) according to which section 31 of Decree No. 409 of 27 September 1971, which bans night work in industry for women, remains in force despite the Government's denunciation of Convention No. 89 in 1992, and relevant provisions in the Constitution and the legal situation in the European Union, with which it conflicts. The Committee notes that the Government considers that section 31 of Decree No. 409/71 is no longer applicable following the amendments to articles 13 and 58(3)(b) of the Constitution (with which it conflicts), and was accordingly revoked in accordance with sections 3 and 4(2), 8 and 23 of the above-mentioned 1979 Decree.

4. The Committee asks the Government to keep it informed of any measures taken to bring this legislation into conformity with current practice regarding night work for women in industry.

Romania (ratification: 1973)

1. The Committee takes note of the Government's report and letters transmitting further information, as well as the comments of the Hungarian Teachers Federation of Romania dated 17 September 1995 which were transmitted to the Government for comment.

2. The Committee notes that the Federation refers to Recommendations Nos. 9 and 11 of the 1991 report of the Commission of Inquiry set up to examine the complaint under article 26 of the ILO Constitution alleging Romania's non-compliance with the Convention, and to points 8 and 10 of the most recent observation, all of which refer to the need for non-discriminatory mother-tongue language policy for the education and training of ethnic minorities in the country. The Federation reports that the draft Education Act, on which the Committee requested more information in its previous observation, was adopted on 29 June and promulgated on 25 July 1995 as Act No. 84. The Federation has stated that it introduces further restrictions on native language education and training of minorities which will affect their equality of access to employment, particularly in sections 8.1, 9.2, 120.2, 122.1, 123, 124 and 166.1. The Committee notes that the Government refers to the new Act in its report, but made observations on the Federation's letter in a communication only received during the Committee's session. The Committee accordingly makes certain preliminary points below, on the basis of the text of the Act, and will examine the Government's detailed comments at its next session.

3. The Committee notes that the English version of Act No. 84 supplied by the Government commences with a foreword explaining the political opposition to the law headed by Hungarian minority political parties, and rebutting the European Parliament resolution of 16 July 1995 condemning the law. The foreword argues that the European MPs had been misinformed and had worked on an outdated version of the text. From the resolution in question, entitled "On the protection of minority rights and human rights in Romania", the Committee notes that the European Parliament referred to the text agreed in the Romanian Parliament on 28 June 1995; the European Parliament regretted that the law arbitrarily restricts the educational rights of minorities by, inter alia, no longer allowing important subjects such as economics, engineering and law, to be taught in minority languages; and called for its repeal. The Committee also notes that the Government transmits a copy of the statement made by the High Commissioner on National Minorities of the Organization on Security and Cooperation in Europe (OSCE) during his visit to the country to evaluate the Act. The Committee notes that the High Commissioner recognized that the Act allows considerable flexibility in its implementation, based on the clarifications and explanations he received from the Government on, in particular, sections 8 and 120.3.

4. Section 8 of the Act contains the statement that: "(2) The right of persons belonging to national minorities to learn their mother tongue and the right to receive education in their mother tongue are guaranteed according to this law." It also contains requirements in subsections 1, 3 and 4 that would indicate that all teaching and educational documents are to be in Romanian. The OSCE High Commissioner on National Minorities indicated in his statement that he had received the explanation that this text should be read in conjunction with section 119 which states that groups, classes, sections or schools with teaching in the language of national minorities may be established taking into account local needs, demand and conformity with the law. Chapter XII of Title II covers education for persons belonging to national minorities. Section 120.3 reads "In the curricula and textbooks of universal history and the history of Romanians there will be reflected the history and traditions of the national minorities of Romania." The OSCE High Commissioner was told, according to his statement, that experts from the national minorities will be requested to contribute to these books.

5. The Committee expresses concern over the perception that the right to teach and learn in minority languages is being reduced, and over the apparently contradictory

requirements in the law. The Committee will be in a position to examine the full impact of the new Education Act at its next session.

6. *Discrimination on the grounds of national extraction, race and social origin.* With regard to its previous request for information on the adoption of the draft Bill on National Minorities, the Committee notes that, according to the Government, the text, of which it supplies a copy in Romanian, is continuing its passage towards being tabled without major amendments. The Committee requests to be kept informed of the discussion of this text, which could be a major piece of legislation in ensuring the application of the Convention and implementing the Recommendations of the 1991 Commission of Inquiry.

7. Regarding the Council for National Minorities, created in April 1993, the Committee takes note of its composition and of the description of its activities over 1994-95 (such as study tours, training courses including specialized training for police officials, seminars, mixed commissions). Noting that the Government refers to mixed Romanian-German commissions, the Committee asks for further information on the aims and activities of such bodies, as well as indications as to whether such joint commissions are envisaged for other minorities.

8. With reference to its previous observation, the Committee notes the information supplied by the Government on measures taken to improve the training and employment opportunities of the Rom, in particular the statistics on the number of Rom students at different educational levels and the training materials prepared for them, which the Government states were never collected by Roma groups which had ordered large numbers of them. The Committee asks the Government to indicate what measures it took to contact the groups concerned so as to ensure the wide dissemination of the manuals in question, and the outcome of these contacts (for example, was the quality of the publication in question?).

9. Also with reference to its previous observation concerning the Rom, the Committee notes the Government's reliance on section 2 of Act No. 30/1991 on the hiring of wage-earners which prohibits all discrimination, inter alia, on the ground of ethnicity and the implementation of this prohibition by the labour inspection machinery. The Committee notes, however, that the Government gives no further information, as requested by the Committee, on the practical results of the discussions held with Rom representatives in late 1994 concerning education and equality of opportunity for this minority, for example through the adoption of the draft Government Decision to establish a national inspection office for the social integration and promotion of the Rom. The report also provides no information on the follow-up given to the proposed meetings of two working groups including Rom labour inspectors, with a view to evaluating their work and encouraging the creation of small enterprises by that minority. The Committee is accordingly obliged to repeat its request for detailed information in this regard.

10. While noting the statistics supplied by the Government on teaching in the Hungarian language (indicating that 8.4 per cent of all pre-university teaching is in Hungarian), the Committee observes that the report does not provide details on the labour market situation of this minority. The Committee accordingly repeats its request for a general assessment of the Government's application of the Convention regarding the Magyar minority, which constitutes over 8 per cent of the population.

11. *Measures of redress.* The Committee recalls that the Commission of Inquiry found that individuals had been the victims of discriminatory practices in employment and occupation on the bases of political opinion, social origin and national extraction, and called on the Government to ensure that they received compensation, including, where possible, reinstatement in their jobs. The Government continues to supply

statistics on the number of court cases concerning claims for compensation under Act No. 118/1990 and Act No. 18/1991: 424 cases were recently heard, of which 335 were settled in favour of the petitioner. The Committee also notes the reasons given for the refusal of a number of cases, which appear to relate to procedural weaknesses in the petition or to the fact that compensation had already been granted in another manner. The Committee repeats, however, its request for information on the measures taken to give effect to Recommendation No. 18 of the Commission of Inquiry (rebuilding of the houses destroyed by the systemization policy) and Recommendation No. 6 (follow-up to the requests for medical examinations made by persons who went on strike in 1987 and who have subsequently been rehabilitated by the courts), in particular the transmission of the list of persons who did, according to the Government's previous report, receive medical examinations and receive government allowances.

12. Regarding Recommendation No. 7 of the Commission of Inquiry (reinstatement of those persons who lost their jobs following detention after their involvement in the 1990 demonstrations), the Committee notes the Government's statement that no reinstatement requests have been received. The Committee hopes that future reports will indicate any follow-up given to this Recommendation, whether in the context of the court proceedings referred to in the above paragraph, or in separate proceedings.

13. *Discrimination on the ground of sex*. The Committee notes with reference to its previous observation that the Government refers to the forthcoming creation of a General Directorate for the Status of Women within the Ministry of Labour and Social Protection. The Committee also notes the statistics concerning the unemployment rate of women (10.5 per cent in 1995), the private sector employment rate of women (27.8 per cent) and the percentage of women in the higher levels of the Ministry (30 per cent). From the National Report on the Condition of Women in Romania, presented by the Government to the Fourth World Conference on Women, held in Beijing in September 1995, the Committee notes that women's rate of employment in 1992 was 37.2 per cent, that in 1993 women were most significantly represented in the tertiary sector (51.9 per cent), and that there was a marked feminization of the following economic sectors: health 78.9 per cent, finance 75 per cent, education 73.2 per cent, trade 68.5 per cent and agriculture 59 per cent. The Report concludes that "despite the high educational level and equal chances and access provided by the entire Romanian legislation, in practice the woman is facing many obstacles to her promotion in economic life, the elaboration of economic policy, and in decision-taking at all hierarchical levels" (page 56). As measures to overcome this problem, the Report refers to UN-funded programmes such as the "Womens' participation to development" with its activities aimed at promoting women's participation in production and management; it also recognizes the need to change the attitude of economic agents towards dismissing women and differentiated hiring, as well as active Government-led social policy in the form of "positive discrimination" (page 68). The Committee would appreciate receiving information from the Government in its next report on the Convention on its implementation of these proposals.

14. *Discrimination on the ground of political opinion*. As the Government's report is silent on the Committee's previous request for information on the practical application of the national policy against such discrimination, particularly as regards manifestations of differing political opinions, the Committee is obliged to ask the Government again for such assurances.

Russian Federation (ratification: 1961)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Committee notes that the new Constitution, adopted on 12 December 1993, in article 19, guarantees equality of rights and liberties irrespective of sex, race, nationality, language, origin, property or employment, residence, attitude to religion, convictions, membership of public associations or any other circumstance. The Committee also notes the Government's statement that the term "political opinion", one of the prohibited grounds of discrimination listed in *Article 1, paragraph 1(a), of the Convention*, is covered by the terms "convictions" and "membership of public associations" found in the Constitution. The Committee would ask the Government to clarify that "convictions" covers this ground since "membership of public associations" might not ensure sufficient protection, by not covering persons who, although they may not belong to a certain public association, nevertheless hold and/or express political opinions. Appropriate additions to the new draft Labour Code would make it clear that all the grounds of the Convention are covered.
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> 2. The Committee would appreciate receiving information on progress in the adoption of the new draft Labour Code, on which the Office's technical assistance was provided in 1993.
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> 3. The Committee recalls that in its previous observation it noted that section 5 of the Act on Employment, amended in July 1992, provides that the national policy on employment shall ensure equality of opportunity and treatment in employment to all citizens irrespective of nationality, sex, age, social status, political convictions and religious attitudes. The Committee notes that the new draft Labour Code mentioned above is worded in a similar manner. Recalling that Article 1, paragraph 1(a), of the Convention also prohibits discrimination on the basis of race and colour, the Committee repeats its request to the Government to provide information on the measures taken to ensure the promotion of equal opportunity and treatment in employment for persons belonging to different racial groups.
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> 4. The Committee is raising other points in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Rwanda (ratification: 1981)

The Committee notes the information supplied in the Government's report. Aware of the situation in the country, the Committee nevertheless notes that the Government has not replied directly to the questions which it raised in its previous comments. However, certain of these points are covered in the examination made by the Government of its application of the Convention.

1. In its previous comments, the Committee had referred to section 5 of the Legislative Decree of 19 March 1974 respecting General Regulations for State Employees and section 6 of the Presidential Order of 20 December 1976 respecting Regulations for Personnel of Public Enterprises, which include among recruitment criteria the issuance by the communal authority to candidates of a certificate of good conduct, living and morals and loyalty to the authorities and national institutions. The Committee notes that the Government recalls the provisions of the above-mentioned Legislative Decree and indicates that there are no legislative or regulatory provisions that define the criteria on the basis of which the communal authority can base a refusal or a grant of these certificates. The Government recognizes that this lacuna could give rise to irregularities and points out that the new authorities in the country can find a solution in conformity with the Convention. With this in mind, a draft of new public service

regulations has been prepared and is being examined by the Government. The Committee asks the Government to transmit, with its next report, information on the measures taken to bring its legislation and practice into conformity with the Convention, and on progress made towards the adoption of the new public service regulations which would amend section 5 of the above-mentioned Legislative Decree. The Committee again draws the Government's attention to the fact that, if by virtue of *Article 1, paragraph 2, of the Convention*, it is permissable to take account of political opinion for certain high-level posts directly involved in the implementation of government policy, the same does not apply when criteria relating to political opinion are applied to all public employment or certain other occupations.

2. Referring to its previous comments on the refusal of communal authorities to issue certificates of good conduct, living and morals, required by the labour administration of persons seeking employment who are suspected of activities prejudicial to the security of the State, without appropriate legislative or regulatory bases, the Committee hopes that the next report will indicate the measures taken and the results obtained in ensuring that no one can only be refused employment for reasons linked to the security of the State within the limits of *Articles 1, paragraph 2, and 4, of the Convention* and subject to the right of appeal in Article 4. Please refer in this connection to paragraphs 134 to 138 and 104 of the Committee's 1988 General Survey on equality in employment and occupation.

3. The Committee is addressing a request directly to the Government on other points.

Saudi Arabia (ratification: 1978)

1. The Committee's dialogue with the Government concerning the application of this Convention has centred on two specific issues. The first is section 160 of the Labour Code, under which "in no case may men and women co-mingle in the place of employment or in the accessory facilities or other appurtenances thereto". The second question, closely linked to the first, concerns access of women to vocational training for occupations which are not traditionally "feminine".

2. While noting the Government's statements concerning the application of the Convention through Islamic law, the Shari'a, the Committee had pointed out in its previous comments that *Article 2 of the Convention* requires that each Member for which the Convention is in force declare and pursue a national policy to eliminate any discrimination based on, inter alia, sex in employment using "methods appropriate to national conditions and practice". The Committee accordingly requested the Government to take the necessary measures to give full effect to the Convention.

3. The Government states that its previous reports reflect the measures taken to give effect to the Convention and that no further legislative measures have been taken. The Government explains, in its most recent report, that section 160 does not regulate equal opportunities in employment or equal rights, but is rather a measure which is derived from rules of conduct applied by Saudi society more generally. The ban on co-mingling is not restricted to the workplace. It is a principle related to a religious matter, dictated by the provisions of the Shari'a (which constitutes the Constitution of the country) to protect the dignity of working women and protect morals. Such co-mingling is also prohibited, for example, in places of worship. The Government states that, according to the definition of "discrimination" in *Article 1, paragraph 1(a)*, of the Convention, section 160 cannot amount to discrimination, since it does not provide for men to be given preference over women, or for women to be left out so as to give men job

opportunities or special treatment in employment and occupation. The Government states that the Labour Code contains no discriminatory provisions whatsoever, and on the contrary devotes a special chapter to women's employment in order to give them more privileges and protection as required by their nature and abilities. The Government states that if women willingly refuse to perform jobs or occupations which make them mix with men, it is because of their deep belief in their religion. Noting that the Convention stresses the importance of taking account of national conditions and practice, the Government states that it is not correct to say that section 160 restricts women to occupations where they will be in contact only with other women: it stems from the societal ban based on the traditions of Saudi society whereby the members of both sexes work in freely chosen occupations after having chosen to obey this prohibition on co-mingling. Section 160 merely reflects the social behaviour by emphasizing that employers must obey traditions.

4. On the second issue, the Government states that its concern with education and training extends to the workforce in general, both men and women, taking account of the fact that Saudi women have a particular opinion about working outside their home. Workers of both sexes are trained side by side in a variety of activities: pedagogical; health care, including laboratory and secretarial work; hospital management; statistics and planning. These occupations, according to the Government "are not considered traditionally 'feminine'".

5. The Committee notes with interest the Government's explanation of the origin of section 160. The Committee points out that it is not necessary for measures to have a discriminatory intent for them to be in contradiction with the Convention. The Committee observes that the *impact* of this section of the Labour Code on the working conditions of women does fall within the definition of discrimination on the basis of sex contained in the Convention. The Committee considers that the requirement in the legislation may result in occupational segregation according to sex if it limits women in fact to professions which are deemed to be suitable for their nature, or if it limits their access to certain professions. In the present case, the Committee notes also that the legislative provision in question codifies in law behaviour which the Government says is voluntary. The Committee accordingly trusts that the Government's future reports will inform it of developments in workplace legislation and practice that give full effect to the Convention's requirements concerning equal opportunities between the sexes with particular attention to the opportunities that women enjoy in practice.

6. Likewise, the Committee notes the Government's commitment to vocational training for the workforce in general, covering both men and women. It would however appreciate receiving more information on the impact of the Government's statement that women's training "takes account of the fact that Saudi women have a particular opinion about working outside their home". The Committee also asks the Government to provide more detailed information on the training provided to women side by side with men, for example, descriptions of training institutes and their courses; and statistics, disaggregated by sex, on the number of students and graduates of these courses.

7. The Committee is addressing a request directly to the Government on other points.

Sierra Leone (ratification: 1966)

1. In its previous comment, the Committee had noted with interest that the new Constitution (Act No. 6 of 1991) no longer made provision for a one-party system and did not reserve certain high-level public offices for members of the recognized party, as

had the Constitution of 1978. (The previous Constitution of 1961, which had included a general provision for the protection of fundamental rights and freedoms on most of the grounds of the Convention was suspended in 1968.) The Committee had also noted with interest that article 8(3) of the new Constitution directs state policy towards ensuring that every citizen, without distinction on any grounds whatsoever, should have the opportunity for securing adequate means of livelihood and adequate opportunities to secure suitable employment and that article 15 lays down certain fundamental human rights and freedoms for all individuals irrespective of race, tribe, place of origin, political opinion, colour, creed or sex. As there had been no progress towards enunciating a national policy to promote equality of opportunity and treatment in employment and occupation, as required by *Article 2 of the Convention*, the Committee had hoped that, in the light of the new Constitutional provisions and, especially, those of article 8(3), the Government would proceed to formulate a national policy, in consultation with the tripartite Joint Consultative Committee.

2. In its reports, the Government states that, despite the suspension of the 1991 Constitution, the Government has a broad-based policy which ensures jobs for all who apply, regardless of sex, religion, ethnicity and political opinion. The Government also states that the Joint Consultative Committee has yet to make its final recommendations on a national policy. The Committee notes this information with concern. It recalls that in the 30 years since the Convention's ratification, the Government has reported consistently that no legislation or administrative regulation or other measures exist to give effect to the provisions of the Convention and that no national policy has been declared, pursuant to *Article 2*. With the suspension of the 1991 Constitution, there is no national legal instrument or formally declared policy in the country which provides any protection against discrimination. The Committee hopes that the Government will respect its obligations under the Convention. In particular, it trusts that a national policy on discrimination will be formulated, as required by the Convention, and that full details will be provided in the Government's next report, on the measures being taken and contemplated to apply the Convention.

[The Government is asked to report in detail in 1996.]

Spain (ratification: 1967)

The Committee notes the information in the Government's reports, in particular the attached judgements of the Constitutional Court in favour of promoting equality for women workers in face of various discriminatory acts.

1. The Committee also notes the observations submitted by the General Union of Workers (UGT) alleging continuing discrimination in employment against women, young workers engaged under the new form of apprenticeship contract (*contratos de aprendizaje*) and persons infected with the HIV virus. The Committee asks the Government to reply to these comments, which were transmitted to it on 3 August 1995.

2. The Committee notes with interest the adoption of new legislation promoting non-discrimination on the ground of sex, in particular Act No. 11 of 19 May 1994, which amends previous legislation including the Workers' Statute. Act No. 11 of 19 May 1994 prohibits discrimination in occupational classification and promotion, and modifies section 28 of the Workers' Statute to incorporate the principle of equal pay for work of equal value. In addition, it notes that Act No. 4 of 23 March 1994 on parental and maternity leave provides economic benefits to those companies which allow their workers to take leave up to a period of three years from the birth of a child and from the time of adoption; and that Act No. 42 of 30 December 1994 on fiscal, administrative

and social measures to promote employment provides economic benefits to enterprises engaging women workers (for example, section 44 establishes the programme for the development of employment for 1995 to encourage enterprises engaging women in professions or occupations where they are under-represented and to allow the conversion of temporary contracts to indefinite ones; and section 40 amends the terms of temporary contracts thereby facilitating the access to jobs of women workers). Noting that women accounted for 59.8 per cent of all temporary contracts entered into under the new system in 1994, the Committee requests the Government to provide information on the application in practice of the new legislation in relation to equality of access to employment between men and women.

3. The Committee notes from the statistics provided in the reports that there is an increase in the number of women entering the labour force, and that a greater number of women over the age of 25 years is now enrolled in educational institutions. However, it notes that the number of women under 25 who have gained access to educational institutions has decreased from 50.8 per cent in 1990 to 41.3 per cent in 1994. The Committee requests the Government to explain this decrease which was not apparent for male students of the same age group, and to continue to provide information on the access of women to education, training and employment, including any measures taken or contemplated to increase the attendance of young women in educational institutions.

4. The Committee is addressing a request directly to the Government on other points.

Sudan (ratification: 1970)

1. In its two previous observations, the Committee had requested full information on the practical application of section 6(c)(6) of Constitutional Decree No. 2 of 30 June 1989, under which a state of emergency was declared throughout Sudan, political parties and trade unions were dissolved, and measures may be taken to terminate the service of any public employee and every contract with a public office while preserving the rights to service benefits or compensation. The Committee notes that the Government's report contains no information on this point. The Committee draws the Government's attention to *Article 4 of the Convention* and to the need for measures intended to safeguard the security of the State to be sufficiently well-defined and delimited so as to ensure that they do not amount to discrimination based on any grounds proscribed in the Convention. It again refers to paragraph 136 of the Committee's 1988 General Survey on equality in employment and occupation, according to which "the application of measures to safeguard the security of the State must be examined in the light of the bearing which the activities concerned may have on the actual performance of the job, tasks or occupation of the person concerned". The Committee hopes to receive full information in the Government's next report on the practical impact of the above-mentioned Decree.

2. As no information has been supplied by the Government on the legal status of the position paper entitled "Concessional Position on the Issue of State and the Religion during the Interim Period" of which the Committee was informed in May 1993, the Committee again asks the Government for information in this regard. The Committee also asks the Government to inform it of any progress towards a new Constitution which would, according to the position paper, be silent about state religion.

3. The Committee would be grateful if the Government would supply, when available, a copy of the new Manpower Act referred to in its previous report, which

according to the Government's information includes a provision giving express effect to the Convention.

4. The Committee notes the information supplied by the Government on the work of the selection committees in the public service and the Government's statement that "the selection process to fill a public post is conducted through a free discussion based on qualifications, and is determined by examinations or interviews or both, depending on the work requirements and the various specializations". According to the Government's report, the section of the Public Service Act of 1991 where this is stated remains effective through section 18 of the Public Service Act of 1994. Noting also the Government's statement that the committees' decisions are taken on the basis of the principle of equal opportunities and without discrimination on the grounds of sex, religion or race, the Committee asks the Government for information on how respect for this principle in the selection committees' decisions is monitored, and on the procedure available for appealing against a decision where a person considers that he or she has been discriminated against on any of the grounds of the Convention.

5. The Committee notes that the Government's most recent overall figures regarding university and secondary school graduates selected for the public service in 1991 and 1992 differ from the figures supplied by the Government for the same years in its previous report, quoted, with reference to university graduates only, by the Committee in its March 1995 observation. According to the latest figures, of the 4,012 graduates in 1991, only 1,761 were women; but of the 4,037 graduates in 1992, 2,829 were women. The Committee asks the Government to provide similar statistics for 1993-95, showing, if possible, public service employees by occupations and level of responsibilities, disaggregated by sex and, if available, national extraction and religion.

6. The Committee notes the statistics supplied concerning the number of participants in various courses offered at regional vocational training centres. However, it notes that the data contains no breakdown of participants by sex and origin as asked for by the Committee in its four previous direct requests to the Government. Referring to paragraph 247 of its above-mentioned 1988 General Survey, the Committee stresses the importance of having statistical analyses of the distribution of labour in the national economy so as to be in a position to identify de facto discrimination through, for example, occupational segregation based on sex, religion and race. Accordingly, the Committee would repeat its request for detailed statistical breakdowns, by sex and religion, of participants in the various vocational training centres.

7. The Committee is addressing a direct request to the Government on certain other points.

Switzerland (ratification: 1961)

1. The Committee notes with satisfaction the adoption on 24 March 1995 of the Federal Act respecting equality between women and men, which improves the situation of women by providing protection against any direct or indirect sexual discrimination in employment relationships, from recruitment to the termination of the relationship. The Act provides for more severe sanctions for violations of the prohibition against discrimination. It lessens the burden of proof — the existence of discrimination is assumed when the person claiming discrimination demonstrates the likelihood — in the case of disputes based on discrimination in the employment relationship, except disputes relating to recruitment or sexual harassment. This latter is deemed to be a case of prohibited discrimination. The Committee notes from the report that the date of the coming into force of the Act would appear to be 1 July 1996 and that an ordinance has

to be issued under the Act at the federal level, while the cantons have to adapt their legislation on procedural law and the public service regulations. The Committee would be grateful if the Government would keep it informed of the effective coming into force of the above Act and if it would provide it with copies of the texts issued thereunder and information on the effect given to it in practice.

2. The Committee notes with interest the establishment on 1 January 1995 of the Office for Equality between Women and Men of the Canton of Lucerne. It also notes the elevation of the Federal Equality Office to a higher rank and that it reports directly to the head of department. The Committee would be grateful to receive information on the measures that have been taken or are envisaged at the cantonal level to strengthen their equality offices, particularly through the provision of sufficient human and material resources to enable them to play their role, especially in promoting and supervising the implementation of the Act respecting equality between women and men.

3. The Committee is addressing a request directly to the Government on other matters.

Turkey (ratification: 1967)

The Committee takes note of the Government's report and the comments of the Turkish Confederation of Employers' Associations (TISK) (describing Turkey's application of the Convention in the private sector) and of the Confederation of Turkish Trade Unions (TURK-IS) (regretting that Martial Law Act No. 1402 continues in force, contravening the Convention).

It also notes the receipt, during the Committee's session, of a further brief report to which are annexed fresh comments, in Turkish, of TURK-IS and TISK. The Committee is obliged to put off its examination of this material until its next session.

1. *Position of public servants dismissed or transferred during the period of martial law 1980-87.* With regard to action taken to give effect to the 1989 Council of State ruling concerning reinstatement of victims of discrimination based on political grounds under Martial Law Act No. 1402, the Committee notes the Government's statement that no definitive figures can be given on dismissed or transferred personnel because of the involvement of the administrative tribunals. The Government is, however, able to report that, of 4,614 civil servants dismissed under the Act, 3,541 applied for reinstatement, 3,515 were readmitted, and 3,399 received compensation; and of 7,023 civil servants transferred, 6,270 returned to their former posts; and of the 267 public employees transferred, only 65 returned to their former posts. The Committee requests the Government to inform it whether any further cases are continuing. Please also clarify the reasons why 26 of the applicant dismissed civil servants were not reinstated, and why 753 of the applicant transferred civil servants, and the 202 transferred public employees, were not returned to their former posts.

2. *Amendments to Martial Law Act No. 1402.* The Committee notes with interest the adoption, on 26 October 1994, of Act No. 4045 to amend Act No. 1402, limiting security investigations and archive researches to the personnel of public bodies and institutions dealing with classified information, defined strictly, and to military, intelligence agency, police and prison staff; and ordering the removal of all records, other than judicial rulings, relating to such investigations from personnel files of persons coming under the Act. The amendment also permits persons who had been prevented from taking public service entrance examinations or employment since 1980 on grounds of security checks, to take the examinations or employment regardless of age, provided that they still have the qualifications required and there is no final court ruling applying

to them. The amendment formally permits reinstatement, within 60 days, of all public employees dismissed pursuant to section 2 of the principal Act subject to certain formalities (similar to those set out in the above-mentioned 1989 Council of State ruling).

3. The Committee notes, however, that section 2 of the principal Act (empowering martial law commanders to request dismissal or transfer to other regions of public servants) has not been repealed as requested in earlier observations, although it has been amended to limit the power of martial law commanders to requesting "assignment or suspension from duties with a view to assignment". Although two new subsections allow such suspended public employees to take up employment in any local administration that wishes to employ them outside the jurisdiction of the martial law commander requesting suspension, with immediate lifting of the suspension and protection of salary, the fact remains that martial law commanders continue to be vested with broad powers which could potentially lead to discrimination in conditions of employment of public employees, on the basis of political opinion. Furthermore, "provisional" section 5 of the amending Act excludes from its coverage military and civilian members of the armed forces and members of the security forces. The Committee asks the Government to clarify when the "provisional" sections of Act No. 4045 cease to be applied.

4. Noting that regulations for the implementation of the amending Act are to be issued, the Committee requests the Government to supply information, in its next report, on the impact of these provisions in practice, and in particular to give information on how those categories of staff excluded from coverage of the amendment are protected against discrimination in access to training, access to employment and terms and conditions of employment, on the basis of political opinion. In this connection, the Committee asks the Government to supply a copy of the Security Organization Discipline Rules and Regulations, which it has been requesting since 1991 in direct requests.

5. The Committee also notes that Act No. 4045 does not amend section 3(d) of the principal Act, which permits martial law commanders to expel for five years from the regions under their control, persons who are considered a threat to national security or public order. The Committee had expressed the hope that appropriate changes would be made so as to ensure that the measures intended to safeguard the security of the State are sufficiently defined and delimited so as not to lead to discrimination on the basis of, inter alia, political opinion. Recalling that the Committee's concerns were reflected in the above-mentioned 1989 ruling of the Council of State, the Committee asks the Government to supply information on the status of section 3(d), and on any use that has been made of it, including any appeals (for example through the national Human Rights Commission). In this connection, the Committee recalls its opinion that the right of appeal under article 125 of the Constitution alone is insufficient, in these circumstances, to ensure that *Article 4 of the Convention* is being applied.

6. ***Measures taken under the 1990 Security Investigation Regulation.*** The Committee notes with interest that, according to "provisional" section 7 of Act No. 4045, those provisions of this Regulation which are not in contradiction with the Act will continue in force only until implementing regulations under Act No. 4045 are adopted, and that such regulations are to be adopted within six months of the entry into force of the Act. Since the Committee had pointed out in its previous observation that the 1990 Regulation is of too broad a scope and application and operates in an excessively broad framework when read together with the 1991 Fight against Terrorism Act, it requests the Government to inform it, in its next report, of the adoption of the implementing regulations and of the consequent repeal of the Security Investigation Regulation. The

Committee would also appreciate receiving details of any use of the 1990 Regulation until its repeal.

7. *1991 Fight against Terrorism Act.* The Committee notes from the Government's report that parliamentary work to amend this Act (which introduced a very broad definition of terrorism and of propaganda, both of which carry sentences of imprisonment) is still in progress. The Committee also notes that, by a decision dated 31 March 1992, the Constitutional Court repealed with effect on 27 January 1993, certain of its provisions, but upheld the constitutionality of sections 1 and 8. These sections had been cited by the Committee in its previous observation as being too broad in scope and as permitting possible discrimination on grounds prohibited by the Convention. The Committee requests the Government to inform it of Parliament's progress in amending the Act so as to ensure that persons are not deprived of employment through imprisonment under this Act as a result of discrimination on any of the grounds set out in *Article 1, paragraph 1(a)*, of the Convention.

8. In this connection, the Committee notes that the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, in a decision E/CN.4/Sub.2/1995/L.10/Add.7 of August 1995, strongly condemned the imprisonment of intellectuals, scholars, writers, journalists and parliamentarians on the ground of their opinions. The Committee requests the Government to inform it of the implications for the national policy of non-discrimination in employment and occupation of such instances of imprisonment.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Afghanistan, Algeria, Angola, Antigua and Barbuda, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belarus, Belgium, Bolivia, Brazil, Bulgaria, Cameroon, Canada, Central African Republic, Chile, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Islamic Republic of Iran, Israel, Italy, Jamaica, Lebanon, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Malta, Mongolia, Nepal, Netherlands, Nicaragua, Niger, Norway, Panama, Philippines, Russian Federation, Rwanda, Saint Lucia, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Slovakia, Slovenia, Somalia, Spain, Sudan, Swaziland, Switzerland, Syrian Arab Republic, Tajikistan, Togo, Trinidad and Tobago, Turkey, Ukraine, Uruguay, Venezuela, Yemen, Zambia.*

Information supplied by *Argentina, New Zealand, Portugal, Romania* in answer to a direct request has been noted by the Committee.

Convention No. 114: Fishermen's Articles of Agreement, 1959

Cyprus (ratification: 1966)

With reference to its previous comments, the Committee notes the information provided in the Government's report. It notes in particular the discussions that were held between the government department responsible and the Office concerning problems of a practical nature relating to the application of the Convention. The Committee hopes that the Government's next report will include information on the measures taken as a result of these discussions with a view to the adoption of legislation giving effect to the provisions of the Convention.

Liberia (ratification: 1960)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee refers to its previous comments and asks the Government to provide full information on each provision of the Convention and each question in the report form approved by the Governing Body.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Italy, Slovenia*.

Convention No. 115: Radiation Protection, 1960

France (ratification: 1971)

The Committee notes the information provided by the Government in its report. It also notes the comments by the French Democratic Confederation of Labour (CFDT), dated 9 December 1994, on the application of the Convention; it notes that the Government has provided no response to these comments.

1. *Article 3, paragraph 1, and Article 6, paragraph 2, of the Convention*. In its 1992 general observation on the Convention, the Committee referred to the findings set out in the 1990 recommendations of the International Commission on Radiological Protection (ICRP) (Publication No. 60), which set dose limits establishing the maximum exposure of workers and members of the general public to ionizing radiations. The Committee notes the indications of the Government in its report that it has not yet adapted the regulations to implement the dose limits recommended by the ICRP because these limits, and in particular the limits relating to small doses of ionizing radiations, are the subject of debate within international bodies concerned with protection against ionizing radiation. In this regard the Committee refers to the indications of the CFDT in its communications that recent scientific studies confirm the validity of the dose limits recommended by the ICRP. The Committee also draws the attention of the Government to the 1994 International Basic Safety Standards which adopted the dose limits set out by the ICRP. The Committee hopes that the Government will provide information on measures taken or envisaged to ensure that all appropriate steps are taken to review maximum permissible doses of ionizing radiations in the light of current knowledge.

2. The Committee is raising certain questions in a request addressed directly to the Government.

[The Government is asked to report in detail in 1997.]

Ghana (ratification: 1961)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. In comments it has been making for over 15 years, the Committee has noted that protection against hazards due to radiation has only been provided by means of the non-binding Code of Practice for the Protection of Persons Exposed to Ionizing Radiations; the Committee had also taken note of the Government's indication that a Radiation Bill was being prepared in order to give legal effect to the Code of Practice. In its 1989 observation,

> the Committee noted the Government's indication that the Radiation Bill had still not been adopted, but that it would be given prompt attention upon the re-establishment of the National Advisory Committee on Labour. The Committee notes from the Government's report, received in 1991, that there has been no change in the application of the Convention.
>
> The Committee would call the Government's attention to its general observation under this Convention which sets forth the revised system of radiological protection adopted by the International Commission on Radiological Protection on the basis of new physiological findings in its 1990 Recommendations (Publication No. 60). The Committee would recall that, under *Article 3, paragraph 1, and Article 6, paragraph 2, of the Convention*, all appropriate steps shall be taken to ensure effective protection of workers against ionizing radiations and to review maximum permissible doses of ionizing radiations in the light of current knowledge. The Government is requested to indicate the steps taken or being considered in relation to the matters raised in the conclusions to the general observation, in particular as regards bringing the Radiation Bill under preparation into conformity with the present state of knowledge.
>
> The Committee hopes that the Radiation Bill with any necessary amendments will soon be adopted and that it also will ensure the application of the following provisions of the Convention which are not covered by the Code of Practice: *Article 9, paragraph 2* (instructions to be given to workers as to the precautions to be taken for their health and safety when working with ionizing radiations); *Article 13(a), (b) and (d)* (circumstances under which, due to the nature and/or degree of exposure, workers shall undergo appropriate medical examinations, employers shall notify the competent authority and shall take any necessary remedial action on the basis of the technical findings and the medical advice); and *Article 14* (to ensure that no worker is employed or continues to be employed in work involving exposure to ionizing radiations contrary to qualified medical advice). The Government is requested to indicate the progress made in these respects.
>
> II. The Government is requested to provide information concerning the methods by which application of the Code of Practice is presently supervised and enforced, as requested under *point III of the report form*, as well as any relevant extracts from official reports concerning the practical application of the Convention, as called for under *point IV of the report form*.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Guinea (ratification: 1966)

In the comments that it has been making for many years, the Committee noted the Government's intention to adopt regulations to provide protection against ionizing radiations. The Committee notes the Government's statements in its last report to the effect that the preparation of such measures is at an advanced stage and that the procedure for their adoption will follow the principles of tripartism. The Committee hopes that the Government will soon report the provisions which have been adopted and are applicable to all activities involving exposure of workers to ionizing radiations in the course of their work and in accordance with the dose limits mentioned in its general observation of 1992, in the light of current knowledge, such as that contained in the 1990 Recommendations of the International Commission on Radiological Protection (ICRP) and the Basic Safety Standards for Protection Against Ionizing Radiation and for the Safety of Radiation Sources of 1994, developed under the auspices of the IAEA, ILO and WHO, and three other international organizations, which are based on the ICRP Recommendations.

Poland (ratification: 1964)

Article 7, paragraph 2, of the Convention. With reference to its previous comments, the Committee notes with satisfaction that pursuant to Order No. 419 of the State Atomic Energy Agency dated 7 July 1995 the minimum age for admission to occupational training, in conditions of exposure to ionizing radiation for which dose limits are provided under section 6.1 of Order No. 124 of 31 March 1988 concerning limit doses of ionizing radiation and indicators determining the risk associated with ionizing radiations, has been raised from 15 to 16 years. The Committee recalls in this connection that it has noted previously with interest that the Order of 21 December 1991 amending the list of jobs prohibited to young persons maintained the prohibition of employment of young persons in conditions of exposure to ionizing radiation, and that while young persons over 16 years of age may be so employed to the extent necessary for their vocational preparation, exposure to radiation had been limited to the level determined for the general public.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Belize, Djibouti, France, Guinea, Japan, Latvia, Norway, Poland, Russian Federation, Slovakia, Ukraine, United Kingdom, Uruguay.*

Convention No. 117: Social Policy (Basic Aims and Standards), 1962

Costa Rica (ratification: 1966)

Migrant workers

The Committee notes with interest that, with the Government of Nicaragua and the technical assistance of the Office, the Government is examining matters relating to migrant workers of Nicaraguan nationality working in Costa Rica. It notes in particular that the establishment of a temporary work permit under Decree No. 24432-TSS-G, which is issued only on production of an employment contract offering guarantees of employment conditions and wages which are not lower than those existing in the sector of activity concerned, is encountering practical difficulties. It notes in this respect the recommendations made at the conclusion of the Office's mission to overcome the difficulties encountered and offset certain shortcomings (simplifying procedures for granting, diversifying and increasing periods of validity, delivery of official papers to members of the migrant's family).

The Committee requests the Government to supply information on the measures taken or envisaged to ensure application of the Convention on this point as well as on the agreements concluded in application of *Article 8 of the Convention.*

Kuwait (ratification: 1963)

With reference to its previous comments, the Committee notes the information supplied by the Government in its report on the following points. It also notes with interest that a technical advisory mission of the Office visited Kuwait in November 1994, to cover issues related to foreign labour, and that, in the response to concrete recommendations submitted by the said mission, the Government has accepted almost all of the recommendations and some measures have already been or are being implemented, including the form of Ministerial Orders.

Migrant workers

Articles 6, 7 and 8, of the Convention. As to the application of Article 6, the Government states in the report that, although individual workers' wages differ, the wages of migrant workers enable them to live decently thanks to various measures taken by the Government, such as subsidized basic commodities and free health services, and also that there is no restrictions on the immigration of workers' family members. Regarding Article 7, the Government indicates that there is no restriction on remittance of workers' savings to their home countries. The Committee notes this information and hopes that the Government will continue to supply information on the application in practice of these Articles, including measures taken in accordance with the recommendations of the ILO mission mentioned above. Please also supply a copy of any agreements entered into with foreign countries for the purpose of regulating matters of migrant workers (*Article 8*).

Remuneration of workers

The Committee notes the Government's indications in the report of measures taken to ensure the regular and timely payment of wages to workers *(Article 11)*, namely: Ministerial Order No. 108 of 29 June 1994 had extended the system of a bank guarantee, i.e. requiring the employer to deposit a financial guarantee to cover in case of non-payment or late payment of wages, to non-governmental activities, particularly those which the Ministry may deem appropriate, which is in line with the recommendation of the technical advisory mission of the Office; and Ministerial Order No. 110 of 7 January 1995 was issued to require the transfer of wages to a Kuwaiti bank on the prescribed date of payment. The latter Ministerial Order also corresponds to one of the recommendations of the above mission, which considered that payment of wages through bank accounts would make it easier to detect cases of default such as non-payment or delayed payment, in particular to foreign workers, and would also make it easier to find out whether the worker is working with the original sponsor or with someone else without necessary authorization. The Committee requests the Government to supply copies of these Ministerial Orders as well as information on their application in practice, with particular reference to migrant workers.

The Committee also notes that the Government considers that the high wage level in Kuwait attracts migrant workers. However, in the absence of response to its previous comments on minimum wages, the Committee again asks the Government to indicate whether minimum rates of wages are fixed in consultation with representatives of the employers and workers *(Article 10, paragraph 2)*, and what measures have been taken to ensure the enforcement of such minimum rates *(paragraphs 3 and 4)*.

The Committee is also addressing a direct request to the Government on certain other points.

Nicaragua (ratification: 1981)

The Committee notes that the Governing Body adopted at its 264th Session (November 1995), the report of the committee set up to examine the representation made by the Latin American Central of Workers (CLAT) under article 24 of the Constitution, alleging non-observance of certain Conventions including Convention No. 117 by Nicaragua. In the above report, the Government is requested to take the necessary measures, in accordance with *Article 11 of the Convention*, to ensure compliance by all enterprises with the legislative provisions such as the Labour Code, relating to the protection of wages, and in particular the regular payment of wages. The Committee requests the Government to refer to the observation made under Convention No. 95 concerning the same issue.

The Committee is also addressing a direct request on certain other points.

Spain (ratification: 1973)

The Committee notes the Government's report containing detailed information on the application of various Articles of the Convention and supplemented by ample documentation. It also notes the comments of the General Union of Workers (UGT) on the application of the Convention, transmitted with the Government's report, as well as the Government's response to them.

The UGT refers to the establishment of a new form of employing young persons between 16 and 25 years under a contract of apprenticeship, whose wage is fixed as a percentage of the Interprofessional Minimum Wage (SMI). The UGT considers that the workers concerned, even if they are called apprentices, perform work similar to other workers and that they should be paid the full rate of SMI.

The Government indicates, in its response, that this new system of contract of apprenticeships was established not on the Government's discretion but on account of a wide consensus in Parliament by Act No. 10/1994 of 19 May 1995. It emphasizes that: firstly, under section 3, paragraph 2(e) of the said Act, theoretical training provided to the apprentice should not be less than 15 per cent of the maximum working hours provided by the collective agreement; secondly, this Act itself fixes specific minimum rates of wages for apprentices, which are lower than the rates fixed by the Royal Decree for normal contracts; and finally, the objective of this system is to facilitate the integration of young persons in work, as a part of the global social and employment policy (covered by Convention No. 122), accompanied also by various measures of training for those persons.

The Committee takes due note of the above information, and in particular that the above Act provides for the wage rate for an apprentice at a percentage of the SMI in relation to a minimum percentage of working time to be spent for theoretical training. It notes that, under section 3, paragraph 2(e) of the said Act, enterprises which have failed to comply with its obligations concerning the theoretical training should pay to the worker, as compensation, an amount equal to the difference between the wage received by the worker, taking account of the time for theoretical training agreed upon in the contract, and the minimum wage (SMI or what is fixed by collective agreement), without prejudice to the prescribed sanction. It further notes that the Act includes a provision stipulating that, after the expiry of the maximum period of three years or otherwise fixed by collective agreement, the worker cannot be employed as an apprentice any more whether in the same or a different enterprise.

In the light of the foregoing, the Committee does not consider that such contract of apprenticeship affects the application of *Article 10 of the Convention* concerning minimum wages. It however requests the Government to continue to include information on the practice of the apprenticeship under this Act with regard to *Article 15(1)* concerning the progressive development of systems of apprenticeship.

Syrian Arab Republic (ratification: 1964)

Remuneration of workers

In its previous observation, the Committee pointed out that, while *paragraph 2 of Article 12 of the Convention* requires limitation on the amount of advances which may be made to a worker in consideration of taking up employment, *paragraph 1 of Article*

12 obliges the competent authority to regulate the maximum amount of advances on wages whenever made and whatever the reasons therefor. The Committee recalled that the present provision of section 51 of the Labour Code only regulates the manner of repayment of advances on wages, and requested the Government to take necessary measures in this regard. The Committee noted in particular that the latest version of the legislative text attached to the Government's report dated 20 April 1994 amended sections 11, 88(2), 117, 121 and 216 of the Labour Code, but did not include the provisions proposed in earlier versions to become section 51(b) in order to fix the maximum amount of advances on wages.

The Committee notes the Government's indication in the report that another draft to amend the provision of the Labour Code will be prepared.

The Committee trusts that the Government will soon take necessary measures to limit the maximum amount of advances on wages made not only to a worker in consideration of taking up employment but also advances on wages made for whatever reason during the employment, so as to give full effect to this provision of the Convention, on which it has been commenting since the ratification. The Committee requests the Government to indicate any progress made and to supply a copy of adopted amendments.

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In addition, requests regarding certain points are being addressed directly to the following States: *Brazil, Central African Republic, Guatemala, Jamaica, Kuwait, Nicaragua, Panama, Paraguay, Zaire.*

Convention No. 118: Equality of Treatment (Social Security), 1962

Barbados (ratification: 1974)

The Committee refers to its previous comments in which it pointed out that section 49 (in conjunction with section 48) of the National Insurance and Social Security (Benefits) Regulations of 1967 and section 25 of the Employment Injury (Benefits) Regulations 1970 which deprive a beneficiary, when residing abroad, of his right to ask for his benefit to be paid directly to him at his place of residence, are contrary to the provisions of *Article 5 of the Convention*. Under this provision of the Convention, Barbados, which has accepted the obligations for branch (e) (old-age benefit), branch (f) (survivors' benefit), and branch (g) (employment injury benefit), among others, must guarantee both to its own nationals and to the nationals of any other Member that has accepted the obligations in respect of the branch in question, when they are resident abroad, direct payment of the benefit to which they are entitled under such branch.

In its report, the Government states that it will for the time being continue to progressively implement the provision of Article 5 by way of reciprocal arrangements. The Committee notes this information. However, the Committee points out that under this Article of the Convention the payment of long-term benefits (other than those of the type referred to in paragraph 6(a) of Article 2) to entitled beneficiaries resident abroad shall be guaranteed as of right, even in the absence of a bilateral or multilateral agreement. Therefore, the Committee hopes that the Government will take the necessary steps in the near future to include in the legislation a provision ensuring direct payment of old-age, survivors' and employment injury benefits to all entitled beneficiaries at their place of residence.

Central African Republic (ratification: 1964)

Further to its previous comments which it has been making for many years, the Committee notes from the Government's statement that the necessary amendments to bring the national legislation into conformity with the Convention are expected to be adopted soon. In these circumstances, the Committee cannot but express its hope once again that the amendments will be adopted in the very near future to give full effect to the Convention in the following respects:

Article 4 (branch (g)) (employment injury benefit) of the Convention. Section 27 of Act No. 65-66 of 24 June 1965 on industrial accident compensation should be supplemented by an express provision that in the case of a victim of an occupational injury who was a national of the State that has accepted the obligations of the Convention concerning employment injury, his dependants (survivors), even if they were resident abroad at the time of the victim's death and continue to reside abroad, shall receive survivors' benefits, if it is proved that they were actually dependent at the time of his death.

Article 5 (branch (e)) (old-age benefit). The national legislation should be amended to provide for payment of old-age benefit in case of residence abroad, both to nationals of the Central African Republic and to nationals of any other member State that has accepted the obligations of the Convention concerning branch (e).

Israel (ratification: 1965)

The Committee notes the information, including statistics, supplied by the Government in its report. It would like to draw the Government's attention to the following points.

Article 5, paragraph 1, of the Convention, branch (e) (old-age benefit), branch (f) (survivors' benefit) and branch (g) (employment injury benefit) in relation with *Article 10 of the Convention.* In its previous comments, the Committee drew the Government's attention to the need to lift, as far as above-mentioned benefits are concerned, the restriction of section 146 of the National Insurance Act concerning the suspension of pensions in case of persons residing abroad for more than six months. It recalls that under the Convention, benefit should be paid abroad to Israeli nationals, the nationals of any other country which has accepted the obligations of the Convention in respect of the branches in question, as well as to refugees and stateless persons, without condition of residency.

In its reply, the Government explains that section 190 of the National Insurance Act entitles the competent Minister to make regulations for the implementation of agreements between Israel and foreign States and that a multilateral convention relating to national insurance to which Israel has acceded shall be regarded as an agreement within the meaning of said section 190. For employment injury benefits (branch (g)) in particular, the Government states that such benefits are paid to residents abroad in accordance with the provisions of the Convention. Therefore, it intends to enact regulations to codify the practice, and preliminary steps are already under way. The Committee notes this information with interest and hopes that the necessary steps will be taken in the near future to promulgate regulations to guarantee the provision of employment injury benefits in case of residence abroad as provided for by Articles 5 and 10 of the Convention.

Regarding old-age (branch (e)) and survivors' (branch (f)) benefits, the Government explains that negotiations are required with other countries which have ratified Convention No. 118 respecting such branches, and that bilateral agreements currently exist with nine countries. The Government adds, though, that all persons who meet the conditions of entitlement to an old-age or survivors' benefit will receive their benefit in the country of residence even if no bilateral agreement exists. The Committee notes this information. It recalls that the payment of these benefits must be effected as of right and without restriction including residency restrictions, even in the absence of a bilateral agreement. The Committee hopes therefore that the regulations which the Government intends to adopt will also cover the payment of old-age and survivors' benefits in case of residence abroad as provided for by these provisions of the Convention.

Article 5(1) (death grants). In response to the Committee's previous comments, the Government states that survivors receive a death grant even when the deceased was buried outside of Israel. The Committee notes this information. It would appreciate receiving a copy of the English translation of the legal provisions (such as statutes, regulations, and ministerial directives) guaranteeing this practice.

Article 6. In its previous comments the Committee recalled that under Article 6 of the Convention, the Government has the obligation to guarantee the grant of family allowances both to its own nationals and to the nationals of any other member which has accepted the obligations of the Convention for branch (i) (family benefit) in respect of children who reside in the territory of any such member, irrespective of the length of the residence abroad. In its reply, the Government states that the Insurance Institute may regard a child as being in Israel even if it has left Israel for a period exceeding six months. The Committee notes this information with interest. In view of the fact that, according to previous information, the Insurance Institute may exercise this power under limited circumstances only, pursuant to section 104(b) of the National Insurance Act, the Committee hopes that the Government will be able to take the necessary measures to codify this practice.

Libyan Arab Jamahiriya (ratification: 1975)

I. *Article 3, paragraph 1, of the Convention* (also in conjunction with *Article 10*).

1. Referring to its previous comments which it has been raising for several years, and to the discussion at the Conference Committee in June 1992, the Committee notes the information supplied by the Government in its report. It draws the Government's attention to the following points:

(a) In its previous observations, the Committee noted that section 38(b) of the Social Security Act No. 13 of 1980 and regulations 28 to 33 of the Pension Regulations of 1981 specify that non-Libyan residents receive only a lump sum in the event of premature termination of work, whereas nationals are guaranteed, under section 38(a) of Act No. 13, maintenance of their wages or remuneration. It pointed out that this distinction is contrary to the provisions of the Convention. In its reply the Government explains that, unless the period of payment of contributions is counted as a contributory period under a social security agreement between the Government and the State of which the contributor is a national, the contributor is entitled only to a lump sum payment, in view of the fact that the foreign worker's residency permit is linked to his contract of employment and that he or she must leave the country upon termination of the contract. The Committee notes this information. It again emphasizes the importance of eliminating the distinction between nationals and non-Libyan workers in the case of *premature termination* of work. The Committee expresses its hope that the Government will take all necessary measures to do so in the near future.

(b) The Government states in its report that section 5(c) of the Social Security Act permits foreign employees working for public administrations to choose whether to contribute to the social security scheme because they enjoy many contractual benefits which are more advantageous than social security benefits. Furthermore, section 8(b) o the Social Security Act, concerning non-Libyan self-employed workers, establishes onl voluntary contributions, unless an agreement has been concluded with the contributor' country of nationality, because most of the persons in this category are not residents i the Libyan Arab Jamahiriya and contribute to social security in their home countries.

The Committee notes this information. It again recalls that where the affiliation o nationals to the social security scheme is compulsory, as in the Libyan Arab Jamahiriya affiliation of certain categories of foreign workers to the social security scheme on a voluntary basis only is contrary to the principle of equality of treatment as provided by the Convention (subject to any agreement drawn between the Members concerned under Article 9). The Committee hopes once again that the Government will take the necessary measures in the very near future to bring the legislation into conformity with the Convention on this point.

2. The Committee notes that the Government's report does not contain any information in reply to the previous observation concerning regulation 16, paragraphs 2 and 3, and regulation 95, paragraph 3, of the Pensions Regulations of 1981. These regulations provide that (without prejudice to special social security agreements) non-nationals who have not completed a period of ten years' contributions to the social security scheme (years that may be supplemented, where appropriate, by years of contributions paid to the social insurance scheme) are entitled neither to an old-age pension nor to a pension for total incapacity due to an injury of non-occupational origin. Furthermore, regulation 174, paragraph 2, of these Regulations seems to imply *a contrario* that the qualifying period is also required for pensions and allowances due to survivors of the deceased person by virtue of Title IV of the Regulations, when death is due to a disease or an accident of non-occupational origin. Since such a qualifying period is not required for insured nationals, the Committee points out again that the above-mentioned provisions of the Pension Regulations of 1981 are incompatible with Article 3, paragraph 1, of the Convention. It hopes that the Government will not fail to indicate the measures taken or contemplated to ensure the application of this provision of the Convention.

II. The Committee notes that the Government's report does not contain any information in reply to its previous comments concerning *Article 5 of the Convention*. It recalls that regulation 161 of the 1981 Pension Regulations provides that pensions or other monetary benefits *may* be transferred to beneficiaries resident abroad without prejudice, where appropriate, in accordance with agreements to which the Libyan Arab Jamahiriya is a party. The Committee points out again that under this provision of the Convention each Member that has ratified it *must* guarantee both to its own nationals and to the nationals of any other Member that has accepted the obligations of the Convention in respect of the branch in question, as well as to refugees and stateless persons, when they are resident abroad, the provision of invalidity benefits, old-age benefits, survivors' benefits, death grants and employment injury pensions. The Committee considers that the strict application of Article 5 of the Convention is all the more necessary in light of the recent mass expulsions of foreign workers from the national territory. It trusts that the Government will not fail to indicate in its next report the measures taken or envisaged to give effect in law and in practice to this basic provision of the Convention.

Suriname (ratification: 1976)

Article 5 (branch (g)) (employment injury benefit) of the Convention. The Committee notes the information contained in the Government's report concerning the ILO mission on social security, the results of which will be discussed at a seminar planned for the end of this year. In previous comments, the Committee had drawn the Government's attention to the need to repeal section 6(8) of Decree No. 145 of 1947, as amended, which restricts payment of employment injury pensions to beneficiaries resident abroad. The Committee expresses its hope once again that the Government will take all necessary measures in the very near future to ensure in law and in practice the payment of employment injury benefits abroad, both to its own nationals and to the nationals of any other Member which has accepted the obligations of the Convention in respect of branch (g), in conformity with Article 5.

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In addition, requests regarding certain points are being addressed directly to the following States: *Central African Republic, Libyan Arab Jamahiriya*.

Convention No. 119: Guarding of Machinery, 1963

Ghana (ratification: 1963)

Articles 1 and 17 of the Convention. With reference to its previous comments, the Committee notes that measures have not yet been adopted to ensure the guarding of machinery in agriculture, forestry, road and rail transport and shipping. The Committee notes that the issue was placed before the tripartite National Advisory Committee on Labour. The Committee hopes that the National Advisory Committee on Labour would soon make recommendations on the matter and relevant measures would be adopted to give effect to the Convention in agriculture, forestry, road and rail transport and shipping.

The Committee requests the Government to provide detailed information on measures taken or contemplated to ensure the guarding of machinery in the sectors referred to above.

Guatemala (ratification: 1964)

The Committee notes the observations made by the Latin American Central of Workers (CLAT) in its communication dated 24 May 1994 alleging violations of the Convention in an enterprise which uses machinery that is dangerous for the health and life of the workers. Referring to the union of workers in the above enterprise (SITREMKANCO), the CLAT notes that the deficiencies and problems existing in the machinery have been pointed out to the enterprise. Nevertheless, equipment continues to be operated which presents serious hazards to the workers. An accident occurred in April 1994 as a result of which a worker suffered second and third degree burns and was hospitalized and placed under intensive treatment.

The Committee notes the action taken by the General Directorate of Social Insurance of the Ministry of Labour and Social Insurance with regard to the comment made by the CLAT. In its communication, received on 8 February 1995, the Occupational Health and Safety Department of the above Directorate indicated that an inspection had been carried out at the enterprise on various occasions and that it had been reported that the equipment which caused the accident had been withdrawn and replaced by new equipment. According to the conclusions of the inspectors, the machinery which was operated in the enterprise when the inspection was undertaken responded to the general conditions of safety. The renovation of the machinery was due to be completed at the end of February 1995.

The Committee notes this information and requests the Government to continue supplying information on the application in practice of the Convention based on summaries of the reports of the inspection services, the number and nature of offences reported, the number, nature and causes of accidents which have occurred, etc. *(point V of the report form)*.

Jordan (ratification: 1964)

The Committee notes the information supplied by the Government in its latest report. It notes in particular that the draft Labour Code has been transmitted to Parliament and should then be submitted to the Senate. The Committee hopes that the Government will be in a position to provide a copy of the text when it is adopted.

The Committee also hopes that the text will contain provisions giving effect to *Article 2 of the Convention* (formal prohibition upon the sale and hire or transfer in any other manner and exhibition of machinery of which the dangerous parts are without appropriate guards) and *Article 4* (obligation to ensure compliance with the provisions of Article 2 resting on the vendor, the person letting out on hire or transferring the machinery in any other manner, the exhibitor, the manufacturer when he sells machinery, lets it out on hire, transfers it in any other manner or exhibits it).

Latvia (ratification: 1993)

The Committee takes note of the comments provided by the Free Trade Union Federation of Latvia (LBAS) relating to the application of the Convention. The LBAS considers the Convention as partly applied because of the use of obsolete machines: the employees have higher risk of accidents. In the absence of a reply by the Government, the Committee hopes that the Government will supply full information on any measures taken to apply the Convention to all power-driven machinery.

Madagascar (ratification: 1964)

The Committee notes that the Government indicates in its last report that the National Assembly has adopted the Code of Labour Hygiene, Safety and the Work Environment, and that the pertinent regulatory texts are being prepared. The Committee hopes that these texts will give effect to the provisions of the Convention and, in particular, to *Articles 2 and 4* which specify that the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts specified in *paragraphs 2 and 3* of Article 2 are without appropriate guards shall be prohibited. The obligation to apply these prohibitions rests on the vendor, the person letting out on hire or transferring the machinery in any other manner, or the exhibitor, and on the manufacturer when he sells machinery, lets it out on hire or exhibits it.

The Committee requests the Government to provide information on any progress made in this regard and to supply copies of the texts in question when adopted.

Sierra Leone (ratification: 1964)

The Committee notes with interest the provisions of the Factories Bill, of which extracts were attached to the Government's last report. The Committee requests the Government to indicate the stage of the legislative procedure reached by the Bill and the body that is currently examining it. The Committee hopes that the Bill will be adopted in the very near future and that the Government will be in a position to supply a copy of the adopted text.

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In addition, requests regarding certain points are being addressed directly to the following States: *Brazil, Croatia, Denmark, Ecuador, Iraq, Latvia, Malaysia, Niger, Switzerland.*

Convention No. 120: Hygiene (Commerce and Offices), 1964

Madagascar (ratification: 1964)

For many years, the Committee has been drawing the Government's attention to the fact that there are no specific laws or regulations to give full effect to *Articles 14 and 18 of the Convention*, which provide that seats shall be supplied to all workers without distinction on grounds of sex, and that noise and vibrations likely to have harmful effects on workers shall be reduced as far as possible. Since 1975, the Government has stated in its reports that the Order envisaged by the Labour Code of 1975 would give full effect to the above provisions of the Convention. The Committee notes the adoption on 25 August 1995 of a new Labour Code (Act No. 94-029), under section 208 of which the provisions respecting occupational health and safety of the 1975 Labour Code remain in force. The Committee also notes the information provided by the Government in its report to the effect that the National Assembly has adopted a Code respecting health, safety and the working environment and that the texts issued under the Code, which are currently being prepared, will take the provisions of the Convention into consideration. The Committee trusts that the Government will report the measures adopted in this respect in the near future and that it will provide copies of the provisions as adopted, including the text of the above Code when it has been enacted.

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In addition, requests regarding certain points are being addressed directly to the following States: *Costa Rica, Djibouti.*

Convention No. 121: Employment Injury Benefits, 1964
[Schedule I amended in 1980]

Libyan Arab Jamahiriya (ratification: 1975)

The Committee notes with regret that the Government's report has not been received for the second consecutive time. It must therefore repeat its previous observation which read as follows:

> *Article 21 of the Convention.* With reference to its previous comments, the Committee notes the Government's statement that, in accordance with sections 28 and 34 of the Social Security Act, No. 13 of 1980, the level of cash benefits currently payable for long-term benefits is reviewed following substantial changes in the cost of living or wage levels. It notes, however, that the Government's report does not contain the statistics requested in order to assess the manner in which this Article of the Convention is applied in practice. It therefore once again requests the Government to supply the statistics called for in the report form under this Article of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Uruguay (ratification: 1963)

Article 21 of the Convention. Further to its previous comments on the review of benefits, the Committee notes with interest that in January 1993 a reevaluation of 63 per cent was made. It also notes that the review of benefits was made on the basis of the average wage index which is partly linked to changes in the cost of living. In order to be able to ascertain the real impact of this re-evaluation, the Committee requests the Government to provide in its forthcoming reports the statistical information requested under Article 21 of the Convention, and in the report form adopted by the Governing Body in particular, information on changes for the period covered by the report in the cost-of-living or wages index along with increases to the scale of benefits for permanent incapacity and death.

Zaire (ratification: 1967)

The Committee notes with regret that, for the third consecutive time, the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. *Article 8 of the Convention.* In reply to the Committee's earlier comments, the Government states that the draft text to supplement the list of occupational diseases in the schedule to Ordinance No. 66-370 of 29 June 1966, which was prepared by the Social Security Reform Commission, will be submitted to the National Labour Board for examination before being transmitted to the competent authorities for enactment. The Committee takes note of this information. In view of the fact that the Committee has been commenting on the question of amending the list of occupational diseases for 20 years, it hopes that the above draft will be adopted shortly and that the list will contain the following additions: (a) diseases caused by the toxic halogen derivatives of hydrocarbons of the aliphatic series; (b) diseases caused by benzene or its toxic homologues, in accordance with the provisions of the Convention.
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> 2. *Articles 13, 14 and 18* (in conjunction with Articles 19 and 20). In its report, the Government indicates that the maximum monthly remuneration that is subject to contribution for the pensions and occupational risks branches has increased from 2,000 zaires to 30,000 zaires. It also indicates that the Executive Council is in the process of examining draft legislation on the national employment and wage policy (adopted by the 25th Session of the National Labour Council, held from 17 to 22 July 1989), and that the text will fix a new guaranteed inter-occupational minimum wage which will affect the level of benefits. The Committee notes this information with interest. It also notes the proposals to increase the daily compensation rate for temporary incapacity. It notes, however, that the statistics provided by the Government in its report do not permit an appraisal of how effect is given to the above Articles of the Convention. Consequently, the Committee would be grateful if the Government would indicate in its next report whether it intends to have recourse to Article 19 or to Article 20 in comparing the amount of periodical benefits provided for in the national legislation with the minimum level prescribed by the Convention. It also asks the Government to provide the statistical information required by the report form under Articles 19 or 20 of the Convention. If the Government intends to have recourse to Article 19, it is asked, in particular, to state the maximum amount of periodical benefits payable in the event of temporary incapacity, total permanent incapacity and death of the breadwinner, and the wage of a skilled manual male employee chosen in accordance with paragraph 6 or paragraph 7 of Article 19. If the Government intends to have recourse to Article 20, it is asked to indicate the minimum amount of periodical benefits payable for each of the three

contingencies mentioned above, and the amount of the wage of an ordinary adult male labourer chosen in accordance with paragraph 4 or paragraph 5 of Article 20. Please indicate also the amount of family allowance, if any, payable during employment and during the contingency.

3. *Articles 23 and 24, paragraph 2.* The Committee notes that the strengthening and extension of the regional social security committees responsible for ruling on appeals by insured persons were discussed during the work on social security reform at the 22nd Session of the National Labour Council. It also notes the Government's statement that the enactment of the new Social Security Code should make it possible to improve the operation of the social security system, in general, and of the regional committees. The Committee therefore asks the Government to provide detailed information on any progress made in the practical operation of the social security system and more particularly the regional committees, and to provide copies of the recommendations adopted in this connection by the National Labour Board. Furthermore, in connection with its previous comments, it again asks the Government to indicate whether the two regional committees still to be set up have now been constituted.

4. *Article 21.* The Committee would be grateful if the Government would provide information on the application of Article 21 of the Convention and supply the statistics required (under this Article) by the report form adopted by the Governing Body, concerning the readjustment of currently payable periodical benefits in the event of permanent incapacity and death of the breadwinner as a result of occupational injury.

5. Lastly, the Committee hopes that the new Social Security Code to which the Government referred in its report will enable full effect to be given to the Convention once it has been adopted; it asks the Government to provide a copy of it as soon as it has been adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

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In addition, requests regarding certain points are being addressed directly to the following States: *Libyan Arab Jamahiriya, Slovenia, Uruguay.*

Convention No. 122: Employment Policy, 1964

Algeria (ratification: 1969)

1. The Committee notes the Government's report for the period ending June 1994 and the attached legislation. The Government has also provided the results of the survey on labour in 1992 which show unemployment (as compared with 1991) increased by 17.5 per cent. Despite an apparently low labour force participation rate for the population of working age, due essentially to the very low participation rate of women (8.75 per cent), the unemployment rate was estimated at around 22 per cent. Since job creation did not keep pace with the rapid population growth, unemployment continued to affect mainly young persons seeking a first job. According to the latest data available at the ILO, unemployment has continued to rise and affects about one quarter of the active population.

2. In its report, the Government provides general information on the approach used in the employment policy it is conducting in the difficult context of transition towards a market economy: it expresses its conviction that industrial restructuring and privatization will allow present employment to be maintained and estimates that the "micro" and small business sector, along with the development of major works, will make a contribution to the creation of new jobs. The Committee, which lacks the

information to assess the manner in which the objectives set out in *Article 1 of the Convention* are promoted in practice, would be grateful if the Government would supply in its next report more specific information on the objectives and effects, in terms of growth and employment, of the mobilization and structural reform programmes applied with the support of the IMF and the World Bank. It hopes that the report will include fuller information on the measures taken or envisaged in investment policy, monetary and budgetary policy, industrial and regional development policies and policies on prices, income and salaries, specifying how they contribute to promoting productive and freely chosen employment.

3. The Committee notes that the machinery for entry of young people remains a major feature of the labour market policy with, in particular, the conclusion of pre-recruitment and integration-training contracts along with job creation measures. Noting the Government's indications that weakness and failure have been noted in regard particularly to profitability of projects and the effectiveness of the cooperative system to encourage lasting employment for young people, the Committee would be grateful if the Government would supply in its next report any available assessment of results obtained by these various measures. Noting also the stress placed by the Government on productive employment as a means of restoring the concept of work as a value, it requests the Government to specify the measures taken in order for the school and training system to make a greater contribution to encouraging the integration of young people in the productive economy.

4. The Committee notes the importance attached by the Government to the establishment of an effective public employment service as a prerequisite to implementing action on employment policies. Referring to its previous comments, it refers to the observation it makes elsewhere in this report on the application of Convention No. 88 in which it requests the Government to describe the measures taken to give effect to the provision stipulating that the employment service must cooperate in the administration of unemployment insurance and assistance and other measures for the relief of the unemployed. More generally, the Committee would be grateful if the Government would supply more complete information on the labour market policy, with particular reference to application of the new Labour Code. With regard to measures designed to balance labour supply and demand, the Committee would be grateful if the Government would provide information on the policy pursued in regard to migration of workers. If it is deemed useful, on this matter the Government may consult Part X of Recommendation No. 169 entitled "International migration and employment".

5. The Committee notes the provisions of the Presidential Decree of 5 October 1993 establishing an economic and social council for the purpose of ensuring dialogue between the social partners and comprising, inter alia, a committee on economic and social development prospects and a population and social needs committee. It requests the Government to indicate whether consultation on the subject of employment policies took place in this council and to supply examples of all relevant recommendations, appeals, reports or studies. The Committee which cannot overstress the need to ensure the widest social dialogue on unemployment problems in the context of the ongoing structural reforms hopes to see in the Government's next report new information showing how consultation with all the persons affected on employment policies is ensured in practice "with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies" in accordance with *Article 3 of the Convention*.

Australia (ratification: 1969)

1. The Committee notes the Government's report for the period ending June 1994, which contains full and detailed information and transmits useful documentation in annex. The Government states that, following the emergence of the economy from recession, employment started to improve from the end of 1993. Although moderate at first, the growth of employment accelerated in 1994, making it possible to bring the unemployment rate down to 9.7 per cent, as compared with 10.7 per cent in 1992. According to the OECD, this trend for the unemployment rate to fall has continued since the end of the reporting period, reaching a rate of 8.7 per cent in June 1995. The proportion of long-term unemployment, which accounted for 39 per cent of total unemployment at the end of 1993, began to decline and reached the level of 36 per cent in 1994.

2. Despite the improvements over the reporting period, the Government continues to consider that the level of unemployment remains unacceptable. The Committee notes that when the Government submitted its White Paper on Employment and Growth to Parliament in May 1994, the Government reaffirmed its commitment to the achievement of the objective of full employment and stated that the White Paper should be considered as a reaffirmation of the principle of the right of everyone to work. The strategy is based on economic growth, which is considered to be the necessary prerequisite, although not sufficient in itself, for the reduction of unemployment. The Government therefore decided to intervene directly on the labour market and set the objective of achieving an unemployment rate of around 5 per cent by the end of the decade. The priority accorded to employment promotion has also been endorsed by the comprehensive Accord concluded with the Australian Council of Trade Unions (ACTU), which includes the creation of a minimum of 500,000 jobs over the period 1993-96 among its fundamental objectives. The Government describes in detail in its report the principal economic instruments adopted to promote the expansion of the economy and of employment: monetary policy is designed to contain inflation and decrease interest rates, while budgetary policy, although remaining active, is designed to balance public finances in the medium term through a renewal of growth. The wages policy agreed with the ACTU has to contribute to containing inflation and improving the competitiveness of the economy by linking wage increases to productivity increases in the context of decentralized negotiations. The Committee requests the Government to continue supplying information on the achievement of the objectives set in the fields of employment and unemployment, as well as on the manner in which the measures adopted to promote employment are decided upon and kept under review within the framework of a coordinated economic and social policy, in consultation with the representatives of employers and workers, in accordance with *Articles 2 and 3 of the Convention*.

3. The Government also provides substantial information on the active labour market policy measures implemented under the initiatives set out in the White Paper. The Committee notes the particular attention paid to the long-term unemployed, who benefit from individual case management and adapted training and employment service support. It also notes the series of programmes intended to promote the vocational integration of young persons, women, aboriginal persons, and persons with disabilities. The Committee requests the Government to continue supplying information on the implementation of these programmes. Noting that the Training Guarantee Act of 1990 has been suspended for two years, following its first evaluation, the Committee requests the Government to refer to the new measures adopted to promote entry-level training and further training by enterprises.

Belgium (ratification: 1969)

1. The Committee notes the Government's report for the period ending June 1994. The Government indicates in the report that the economic recession in 1993 resulted in a heavy decline in employment and a new rise in the unemployment rate, which reached 11.9 per cent in 1993 and 12.6 per cent in 1994. However, it states that the recovery of growth should lead to a flattening out of the unemployment rate, which would appear to be confirmed by the most recent OECD estimates, which point to an unemployment rate of 12.4 per cent in 1995. Among the structural characteristics of unemployment, which the Government considers still to be a matter of concern, the Committee notes the substantial rise in the unemployment rate for young persons, the persistence of broad regional disparities and the continued substantial rise in long-term unemployment. Another picture of the labour market situation is given by the estimate of a broad definition of unemployment (including the persons covered by special programmes) which the OECD considers to be around one-quarter of the active population.

2. As in its previous reports, the Government describes in detail all the labour market policy measures implemented to encourage employers to offer new jobs through measures to reduce social contributions for the recruitment of a first employee, a young person or a worker affected by long-term unemployment; to encourage withdrawals from the labour market through an early pensions scheme; and to achieve a better balance between the supply and demand for labour by promoting a redistribution of work negotiated at the enterprise level and through career breaks. The Committee would be grateful if the Government would supplement this information by an evaluation of each of these measures in order to make it possible to assess their impact on the employment of the persons affected, as well as on the overall employment situation. The Committee also notes that the 1978 Act respecting contracts of employment has been amended to authorize on a temporary basis the conclusion of consecutive fixed-term contracts. It requests the Government to indicate the measures which have been taken or are envisaged to ensure that this measure has the effect of creating new jobs, rather than making existing jobs more precarious. More generally, it would be grateful if the Government would indicate, in the light of recent experience, whether the implementation of the various measures to eliminate or reduce a number of rigidities on the labour market has made it possible to increase the employment potential of growth.

3. The Government also refers to the conclusion of the inter-occupational agreement for 1993-94, which provides that the social partners have to take into account in their negotiations the effects of wage costs on competitiveness and employment. It also describes the major strategies of the overall plan for employment, competitiveness and the social security adopted in November 1993, which is designed to encourage the distribution of work, promote employment for young persons and reduce the cost of labour. The Government considers that the high cost of labour is a barrier to employment and that this barrier can be reduced through the financing of social security, by making it more favourable to employment generation. The Government's description of the various measures which have been adopted or are envisaged sheds light on the link that it is seeking to establish between labour market reform, the reform of the social security system and employment policy. The Committee notes that these questions were covered by standards adopted in 1988 (the Employment Promotion and Protection Against Unemployment Convention (No. 168) and Recommendation (No. 176)) which may, where appropriate, be a source of inspiration for the formulation of policies in these fields.

4. With reference to its previous observations, the Committee once again requests the Government to provide the information required by the report form on the measures adopted in fields such as monetary and budgetary policies. It would be grateful if the Government would indicate the manner in which it endeavours to ensure that their impact on employment is taken into account and that employment policy measures are decided upon and kept under review within the framework of a "coordinated economic and social policy", with a view to achieving the objectives set out in *Article 1 of the Convention*. The Committee notes that the Government considers it imperative to pursue an active employment policy which makes it possible to attain the objective of full employment in so far as possible. This policy should be the means of implementing the constitutional obligation newly introduced into statutory law by the adoption of the Act of 31 January 1994 to amend the Constitution, which now includes "the right to work and to the free choice of professional activity within the framework of a general employment policy" among the "economic, social and cultural rights" which form part of the right of every person to "lead a life worthy of human dignity".

Bolivia (ratification: 1966)

1. The Committee notes the Government's report for the period ending June 1994. In its previous comments, the Committee included a request for information on the situation, level and trends in employment, unemployment and underemployment, particularly with regard to the most vulnerable categories of the population such as women, young people seeking their first job, workers who have lost their jobs as a result of economic adjustment, indigenous peoples, etc. The Government states that it is not possible to satisfy such a request for the moment. Budgetary restrictions prevent the carrying out of regular censuses and/or surveys which would help to provide an overview of the labour market periodically and clearly. The Government states that it is the National Statistics Institute which prepares an annual integrated survey of households. In these circumstances, the Committee refers to the analysis and the statistical information transmitted by the ILO multidisciplinary technical team (MDT) in Lima. According to the data provided by the MDT, non-agricultural employment has increased rapidly during 1990-93, faster than demand, which resulted in the reduction of open urban unemployment (which fell by 7.3 per cent in 1990-91 to 5.8 per cent and 5.4 per cent in 1992 and 1993 respectively). Nevertheless, between 1990 and 1993, informal urban employment still continued to rise. Over 60 per cent of the urban economically active population is working in low productivity jobs or is unemployed. The Committee recalls that many aspects of an active employment policy lie beyond the competence of the minister responsible for labour so that preparation of a full report on this Convention requires consultations with other ministries or government agencies concerned such as those responsible for planning, the economy and statistics. In this respect, it would be appreciated if the Government's report could contain indications on the procedures adopted in order to take into account the objectives of an active employment policy in the light of the other economic and social objectives. The Committee trusts that the Government will do its utmost to ensure that, in its next report on the application of the Convention, statistical information can be supplied on the size and distribution of the labour force and the nature and extension of unemployment as an essential stage for the formulation and execution of an active employment policy, in the meaning of *Articles 1 and 2 of the Convention*.

2. The Government's report includes some indications on assistance given to persons affected by administrative restructuring who can receive allowances and grants

from the Social Relief Fund. The Committee hopes that in its next report the Government will be able to supply detailed indications on the results achieved by the measures designed to satisfy the needs of the least privileged categories of persons who have difficulty in retaining their employment or in obtaining lasting employment such as workers affected by administrative restructuring or industrial rationalization, women, young people, the disabled, or the long-term unemployed. Please indicate the results obtained by the measures envisaged in the context of decentralization and popular participation for the execution of regional and local programmes for strengthening small business and other employment programmes.

3. The Committee recalls that in its previous comments it was able to welcome the information supplied by the Government on the activities of the National Institute of Vocational Education and Training (INFOCAL). It requests the Government to refer again in its next report to matters pertaining to the coordination of education and vocational training policies with employment policy which is essential so that all workers have the fullest possible opportunity to qualify for a job for which they are well suited and to use in this job their skills and endowments.

4. Finally, the Committee notes that the Government's report does not contain the information requested on several occasions, by the Conference Committee on the Application of Standards among others, on the consultations which should be held on employment policy. These consultations should discuss the measures which have to be adopted in relation to employment policy with the aim of taking fully into account the experience and views of the persons affected and, furthermore, obtaining their full cooperation in the task of formulating the policy concerned and enlisting the necessary support for its execution. The consultations with representatives of the persons affected might include representatives of employers and workers and also representatives of other sectors of the population such as those working in the rural sector and the informal sector. The Committee trusts that, bearing in mind the vital importance which it attributed in previous reports to agreement between the main social and economic agents, the Government will not fail to provide in its next report the details required by the report form under *Article 3 of the Convention*.

Brazil (ratification: 1969)

1. The Committee notes the Government's report for the period 1993-94, received in October 1994. The Government describes the situation of the labour market, referring to macroeconomic aspects, employment and salaries. It also refers to the active measures envisaged or adopted in particular within the National Employment System (SINE) and to the various methods used to obtain data concerning employment. In 1993, inflation reached 2,489 per cent which did not prevent the GDP from increasing by 4.96 per cent. In 1994, the GDP growth was maintained but inflation fell substantially and was between 25 and 30 per cent per annum for 1994-95. The Government indicates that despite the increase in the GDP (in 1993) the labour market did not give signs of a clear and real recovery. In accordance with the data of the General Survey of Employed and Unemployed (Act No. 4923/65), generation of employment reached a relatively insignificant figure. The Government puts forward two hypotheses to explain what it calls a discrepancy between economic growth and job generation: the first is that new technologies were incorporated in the industrial process — which would entail *growth without employment* similar to that in some European countries. In the Government's view, this hypothesis should be rejected since economic recession and uncertainty have undoubtedly inhibited substantial investment in new technologies by enterprises. The

second hypothesis would explain the lack of job creation by the attitude of enterprises in the face of economic uncertainty; they have preferred to achieve increased production by resorting to overtime without incurring new investment or the adoption of new technologies.

2. The Committee also notes the indications given by the Multidisciplinary Technical Team of the Office which has examined in general the effect of trade liberalization on the labour market in Brazil. Its technical analysis suggests that in the face of international competition Brazilian firms have reacted by abolishing jobs in order to reduce costs, producing a loss of quality jobs yet still achieving relative increases in productivity. This can be deduced from the drop in the number of employees with *carteira assinada* (those who have a permanent work contract and enjoy social security cover) and the relative increase in workers without *carteira assinada* and in other insecure employment, and having lost their jobs and exhausted their rights to unemployment benefits.

3. The Committee observes that the data available (which are referred to by the Government in its report) are restricted to the large metropolitan areas of the country (Belo Horizonte, Porto Alegre, Recife, Río de Janeiro, São Paulo) and do not include information allowing examination of the situation, level and trends in employment, unemployment and underemployment in the whole of Brazil, nor the extent to which particular categories of workers (such as women, young people, indigenous people) are affected. The Committee is bound to note that as an essential stage in adopting measures on employment policy, statistical and other types of other information must be gathered and analysed as well as that on the size and distribution of the labour force, the nature and extent of unemployment and trends in that matter (first question on the report form for Article 2 of the Convention).

4. The Committee notes the information on the objectives and application of active employment policies designed to promote employment through small businesses and micro-businesses, cooperatives and informal sector activities. It notes that there are plans to carry out restructuring of the National Employment System (SINE) which would allow interaction between the programme for employment security and the activities of the manpower agencies and occupational guidance services. In this context, the Committee notes with interest that ratification has been registered of Convention No. 168 concerning Employment Promotion and Protection Against Unemployment, 1988, for which the first report will be examined at its next meeting. The Committee would be grateful if the Government would continue to supply indications allowing it to assess the impact of the measures adopted, for example in the SINE framework, designed to harmonize labour supply and demand with the structural changes resulting from changes in international trade and the introduction of new technologies.

5. The Committee considers it appropriate to repeat its understanding of the pressures which continue to affect the Government's options in economic policy. It stresses once again its interest in being able to examine a report from the Government containing information on the way in which active measures are adopted to alleviate the adverse effects on employment of the economic policy measures affecting broad sectors and underprivileged regions of the population and the country. It would be very grateful if the Government would indicate in its next report the links which have been established between the aims of the economic policy and the objectives of an active policy designed to promote the objectives of full, productive and freely chosen employment within the meaning of the Convention. The information, along with that required in the report form for the Convention (second question on Article 2), would enable the Committee to

appreciate better the efforts made and the results achieved by the Government towards attaining effective application of the Convention.

6. The Committee notes that the Government's report contains no information on the consultations required under *Article 3* of the Convention. In a context such as the one described, the Committee points out that consultations with representatives of the persons affected are of great importance with a view to taking fully into account their experience and views and securing their full cooperation in formulating and executing an active employment policy within the meaning of the Convention. Consultations should be held with the representatives of the persons affected and, in particular, representatives of employers' and workers' organizations. The Committee again recalls that in view of their share in the active population it would be highly appropriate for representatives of workers in the rural sector and the informal sector to be involved in consultations on employment policy. The Committee trusts that in its next report the Government will supply information on the effect given to this fundamental provision of the Convention.

7. The Committee notes the observations made by the Unique Workers' Central (CUT) of Paraná on the dismissal about 4,000 Brazilian and Paraguayan workers by the Itaipú Binational Body. For its part, the Government sent a communication on the evolution of the labour force involved in the construction of the Itaipú hydroelectric dam, Brazil-Paraguay Binational Body. The data sent shows a gradual reduction in the number of workers employed by the Binational Company. It is recognized that unemployment is a general macroeconomic problem which cannot be solved by the Binational Body. The Committee would be grateful if the Government would supply in its next report more details on the financial advantages and conditions for social integration offered by the incentives programme for those who agree to leave their jobs (*demissao voluntaria incentivada*, which the Government mentions in its communications). The Government might also refer to Convention No. 158 of 1982 concerning termination of employment of which ratification was registered in January 1995.

8. Please indicate also in the next report, the action taken as a consequence of the assistance or counselling received from the Multidisciplinary Technical Team or other ILO services to promote activities connected with employment policy (*Part V of the report form*).

Canada (ratification: 1966)

1. The Committee notes the Government's report for the period ending June 1994 and its annexes. From the data published by the OECD, it notes that there has been a slight recovery in employment figures (the OECD refers to a "recovery without employment") and a drop in the unemployment rate at the end of the period when it amounted to 10.4 per cent, having reached 11.3 per cent in 1992. The Government stresses that the unemployment rate is still higher than before the recession and remains among the highest in the seven major industrialized countries. In addition, it notes that there is a rapid and continuing increase in part-time employment (involuntary for 40 per cent of women workers) as compared with full-time employment and an unprecedented drop in the rate of activity since the beginning of the decade.

2. The Government confirms that employment is its highest priority, as outlined in the February 1994 budget. Creation of employment is sought through policies which foster economic growth and provide opportunities to acquire the skills needed to meet the challenges of the rapidly changing labour market. According to the Government, a policy of steady reduction in the fiscal deficit, primarily focused on controlling expenditures, would set the climate within which private sector-based economic growth

and job creation can take place. The Committee, which notes that the other major objective of controlling inflation seems largely achieved, hopes that this priority in the immediate term to rebalancing public finances will have the expected effects on employment. It also notes that the federal Government and the provinces are engaged in a vast reform of the income security and unemployment insurance system to ensure that it contributes more effectively to the return to employment of its beneficiaries. The Committee requests the Government, in this respect, to supply detailed information on the measures taken or envisaged in order to better coordinate the unemployment protection system with the active employment policy.

3. Furthermore, the Committee notes the indications regarding the labour market policy programmes which are being implemented specifically with a view to promoting the adaptation of the skills of workers in employment and of the unemployed as well as the integration of young people into the labour market. It has noted with interest the evaluation reports for various programmes which the Government indicates should be profoundly modified in the framework of the current reform of the social security system. The Committee would be grateful if the Government would continue to supply any available assessments on the effectiveness of training and integration measures.

4. With reference to its previous comments and the discussion at the Conference Committee in 1992, the Committee hopes to be able to note when it examines the next report further progress in achieving the objectives set out in *Article 1 of the Convention* at both federal and provincial level.

Denmark (ratification: 1970)

1. The Committee notes the Government's report for the period ending June 1994. It notes that most of the period was characterized by a low rate of economic growth, the continued decline in total employment and a rise in the unemployment rate, which flattened out at over 12 per cent in 1993 and 1994, in comparison with 11.2 per cent in 1992. According to OECD estimates, the livelier growth of the economy as of 1994 should make it possible to reduce the unemployment rate to 10.6 per cent in 1995.

2. The Government emphasizes that the reduction in the level of unemployment and the improvement of the employment situation have been among its very highest priorities since it entered office in January 1993. In this respect, it refers to the implementation of an expansionist fiscal policy in order to stimulate economic activity and promote employment, without jeopardizing sound economic development. In this context, it refers to the reform of income tax, public investments in infrastructure, initiatives to support entrepreneurs and strengthen research and development activities, and the creation of additional places in education and training, particularly in the field of further training for adults. The Committee would be grateful if the Government would continue supplying information on the manner in which the principal strategies of economic policy contribute to the pursual of employment objectives.

3. The Government also considers that the active labour market policy measures adopted have not been sufficient, for which reason it has commenced a reform with a view to harmonizing and decentralizing such measures as of January 1994, particularly through the adoption of the consolidation Act respecting the active labour market policy, which emphasizes the early identification of persons who are particularly threatened by long-term unemployment and a more effective individualized follow-up for jobseekers. The Act on leave is intended to promote temporary withdrawals from the labour market through training leave, parental leave and sabbatical leave with a view to a better distribution of employment, while at the same time contributing to the improvement of

the skills and living standards of workers. The Committee requests the Government to indicate the extent to which the implementation of these provisions has resulted in the creation of new jobs.

4. The Committee notes the changes in the procedures for the consultation of the persons affected by employment policies. It notes the establishment under the Ministry of Labour of a Labour Market Council, the advisory competence of which is extended to the formulation and follow-up of all labour market policy measures. The Committee also notes the establishment of the Training Council, with responsibility for submitting proposals to the Minister of Labour concerning law and policy in this field. The Committee requests the Government to provide information in its next report on the opinions issued by these advisory bodies, and to transmit any relevant examples of reports or recommendations that they have adopted.

Ecuador (ratification: 1972)

1. The Committee notes the Government's report for the period ending June 1994. With reference to its request made in the observation of 1994 on the procedures which have been adopted to guarantee that the measures which are taken to promote economic development and other economic and social objectives contribute to the attainment of the employment objectives set out in development programmes, the Government states its conviction that the success obtained in reducing inflation (from 60 per cent in 1992 it has dropped to 26 per cent in 1994) is a major achievement to improve the purchasing power of the population. The Government also states that the recovery in monetary reserves, the reduction in the budget deficit (which dropped to 0.4 per cent of the GDP in 1993) and, especially, the agreement with external creditors for renegotiation of the external debt, are contributing to the increase of productive foreign investment, which will reactivate the employment market in the country. The Committee notes the results achieved in re-establishing the growth of the GDP and reducing inflation but notes that unemployment is around 13 per cent while the underemployment level is about 50 per cent. On this matter, the Committee trusts that in its next report the Government will supply information on the results of the measures planned to solve the problem of unemployment and underemployment. In this respect, the Government should supplement its next report with replies to the questions concerning overall and sectoral development policies, labour market, educational and training policies set out in the report form approved by the Governing Body.

2. With reference to the comments it has been making for several years, the Committee again notes that the Government recognizes the crucial importance of the views of the social partners on employment policy. The Government refers to the Action Plan 1993-96 in which it expresses its intention to discuss these matters with the sectors concerned, suggesting the implementation, for example, of activities strengthening wide participation and forming a labour consultation plan. This plan would be based on a tripartite agreement between employers, workers and the public sector, would have the economic support of UNDP and the technical support of the ILO. The Committee notes that this project was to begin in 1995 with the aim of negotiating tripartite agreements on policies for employment, wages and productivity to be carried out in the country. The Government adds that it is seeking to institutionalize machinery for dialogue and participation. The Committee trusts that it will be possible to carry out these initiatives suggested by the Government, which appear to comply with the purpose of the consultations required under *Article 3 of the Convention*. The Committee trusts that the Government will be able to supply indications on progress in this matter.

3. The Committee notes the observations of October 1994 sent in by the Ecuadorian Central of Class Organizations (CEDOC) regarding application of the Convention. CEDOC considers that the Government's policy of encouraging state workers to resign and abolishing posts within the framework of a state reduction plan is contrary to application of the Convention. Between 1993 and 1994 20,000 state workers were made redundant. Furthermore, CEDOC states that the Government does not consult workers' organizations — at least CEDOC — on the measures to be adopted on employment policy. The Government for its part indicates in its report (which states a copy has been sent to CEDOC) that programmes for retraining public employees who have left their jobs are being carried out while strong support is being given to micro-enterprise management as a real employment alternative for this group of workers. The Committee recalls that in its direct request of 1994 it included a question regarding the impact on the social costs of structural adjustment of the compensation plan formulated following the programme to reduce public expenditure and the privatization policy. In this context, the Committee notes Decree No. 2243 of 8 November 1994 which establishes a national training programme for integration into productive activities of public employees who participated in voluntary resignation programmes. It also notes the support provided to micro-enterprises through 225 million dollars received from the World Bank, Inter-American Development Bank and the Andean Development Corporation which allow favourable credits to be granted in the sector. The Committee requests the Government in its next report to specify the results obtained from these measures which seem designed to align labour supply and demand as a result of the structural changes made in particular areas such as the public sector. The Committee trusts that the representatives of the persons affected by the employment reduction measures will be consulted, within the meaning of the Convention, and will be involved in the consultation referred to by the Government in its report.

4. In a direct request, the Committee requests the Government to include in its next report information on some aspects of the application of the Convention such as the effects of liberalization of trade on employment, the incomes policy, the action of the Social Front in formulation of the employment policy, compensatory measures adopted in the framework of employment programmes, technical cooperation received from the Office, job creation through part-time contracts and free zones.

France (ratification: 1971)

1. The Committee notes the Government's detailed report for the period ending June 1994, which demonstrates the consideration given to the comments on the application of the Convention. It regrets, however, that the data supplied by the Government, like those from the OECD, confirm the continuing deterioration of the employment situation since the beginning of the decade. The slow growth in economic activity and its recession in 1993 resulted in a decrease in total employment of 0.8 per cent in 1992 and 1.2 per cent in 1993. The unemployment rate, which was 9.4 per cent in 1991, increased rapidly to 10.4 per cent in 1992, 11.7 per cent in 1993 and 12.3 per cent in 1994. The Committee notes that, according to the OECD, the upsurge in activity and in employment should allow unemployment to stabilize at a rate estimated at 12 per cent in 1995. Swelled by dismissals and a drop in the number of unemployed finding work, the increase in rate of unemployment has been more pronounced for the age groups having the highest rate of activity. Young people under 25 years of age, however, experienced unemployment levels of up to 27.5 per cent in 1994, despite the considerable reduction of activity in this age group. The unemployment situation is still

very worrying, because of both the unprecedented level of unemployment and the percentage of long-term unemployment.

2. Referring to its previous observations, the Committee notes the indications supplied by the Government on the general economic policy measures taken with a view to promoting employment. The Government stresses that priority must be given to reducing interest rates which can only be obtained by reducing public deficits. It considers that the beneficial effects of such a policy for activity and employment will be felt only progressively, which justifies the adoption in the interval of selective fiscal measures to encourage private consumption of durables and investment in home ownership or assisting enterprises to overcome their present difficulties. In addition, as a remedy for structural financing problems of firms, the Government has adopted measures designed to promote a better allocation of savings, to cut down the tax burdens on restructuring operations in enterprises and to conclude privatization of enterprises in the competitive sector. The Committee invites the Government to continue to supply information on the various aspects of the macroeconomic policies pursued with a view to promoting growth in activity and employment. It requests it in particular to specify in what manner the main objectives in terms of interest rates, exchange rates or budgetary deficit are determined and reviewed regularly on the basis of their actual or expected impact on employment.

3. The Government has, moreover, sent detailed information on the labour market policy measures implemented during the period. The Committee, which notes the importance of hirings under the solidarity employment contract system, invites the Government to supply information on how this arrangement contributes to lasting integration into employment of those concerned. It also requests the Government to supply any assessment available of the effectiveness of the various measures for integrating young people in alternating training. The Committee notes the provisions of the five-year law of 20 December 1993 concerning work, employment and vocational training. It notes that this law tends to promote the creation or maintenance of jobs by lowering the cost of labour through measures to exempt from social charges, to encourage better distribution of work by the negotiated arrangement of the organization and duration of work and to better coordinate the various measures for apprenticeship, training and occupational integration. The Committee would be grateful if the Government would supply in its next report information on the results which had been obtained in each of these fields through these arrangements, which do not for the moment, as the 1995 OECD economic survey seems to suggest, according to evaluation available, to have had clear and appreciable effects in terms of combating unemployment.

4. The Committee notes the indications on the consultation of representatives of employers' and workers' organizations in the higher employment committee established under the Ministry of Labour. It recalls on this score that the consultations required by *Article 3 of the Convention* should be extended to all aspects of economic policies having an influence on employment. The Committee would be grateful if the Government would indicate whether such consultations allowing the representatives of the persons affected to collaborate in formulating these policies are held, for example, in the Economic and Social Council.

Hungary (ratification: 1969)

1. With reference to its previous observation, the Committee notes the Government's report for the period ending June 1994, which contains a description of

the developments in respect of employment and unemployment and describes the main features of the employment policy pursued by the Government.

2. According to the data provided by the Government and the information contained in OECD surveys, the recession flattened out in 1992 and has been replaced since 1993 by a modest recovery in growth, reaching an estimated growth rate of 2 per cent in 1994. After peaking at 13.6 per cent of the active population at the beginning of 1993, the unemployment rate has fallen regularly to around 11 per cent at the end of the period. However, in addition to the fact that it has been accompanied by a significant decrease in activity rates, particularly among workers over 50 years of age, this decline in unemployment has particularly benefitted the least affected regions and has accentuated regional disparities: from around 9 per cent in Budapest and the North West of the country, the unemployment rate exceeds 20 per cent in the North East. The higher incidence of long-term unemployment (42 per cent of total unemployment, as against 14 per cent at the beginning of 1992), as well as the unemployment rate of young persons and the least skilled workers, are all worrying characteristics of the structure of unemployment.

3. However, the development in the unemployment situation is only a partial reflection of the impact of economic changes on the labour market. The level and structure of employment have undergone rapid modification over recent years. Total employment fell by nearly 25 per cent between 1989 and 1994 (40 per cent in agriculture), despite the creation of jobs, particularly in small enterprises. The Government is aware of a new fall in employment, associated with an increase in the number of inactive persons among the population of working age, thereby jeopardizing the budgetary situation. The Committee would be grateful if the Government would continue to supply information on developments in trends in the active population, employment, unemployment and underemployment.

4. The Government considers that, due to the recession in the principal economic sectors and aggravated by redundancies carried out in the context of structural reforms, unemployment has become a massive and lasting phenomenon, in respect of which the scope of political action is necessarily limited. It states that, in the context of the social market economy that it intends to introduce, the State refrains from intervening directly in the free interplay of economic laws, including the labour market, but that it takes economic and social policy measures which have the effect of promoting employment. The Government refers in this respect to the measures adopted to support exports, promote entrepreneurship and investment, education and training. The Committee would be grateful if the Government would supply more detailed information in its next report on these measures, as well as on the main characteristics of its general economic policy in fields such as monetary and budget policies, and prices incomes and wages policies. Recalling the allegations concerning the insufficient level of integration of employment objectives with other economic and social objectives, to which it referred in its previous observation, the Committee hopes that the Government will provide a more detailed description in its next report of the manner in which all of these measures, adopted "within the framework of a coordinated economic and social policy", contribute to promoting full, productive and freely chosen employment "as a major goal", in accordance with *Articles 1 and 2 of the Convention*.

5. In parallel with the measures adopted to create the conditions for the development of a market economy, the Government has used various labour market and employment policy instruments to combat unemployment and its social consequences, particularly in the most affected regions. Although the Government has emphasized the significance of the resources allocated to financing such measures, the Committee regrets

in this respect that it has not been provided, as it was in the previous report, with information enabling it to assess the scope and effectiveness of these measures. It requests the Government to provide any available evaluation of the results achieved through such measures in terms of the lasting integration of their beneficiaries into employment. The Committee also requests the Government to provide full information on the action taken as a result of the ILO technical cooperation project on employment policies for transition (*Part V of the report form*).

Ireland (ratification: 1965)

1. The Committee notes the Government's report for the period ending June 1994 and the useful documentation attached. It notes that, as a result of an economic growth rate that is without equal among the other European countries that are parties to the Convention, employment continued to grow over the reference period, to start with at a modest rate (0.5 per cent and 0.6 per cent in 1992 and 1993), then at a more sustained rate (2.6 per cent in 1994 and again 2.4 per cent in 1995, according to OECD estimates). Despite the simultaneous rise in the active population, unemployment fell as of 1993, with the OECD standardized unemployment rate falling to 14.8 per cent in 1994, from over 16 per cent in 1992. However, the Government states that the rapid growth of production has been accompanied by very high productivity increases which have tended to diminish its favourable impact on employment. The Committee notes that despite the trend for the unemployment rate to decline, which has continued in 1995, it remains at a very high level. Furthermore, although labour market policy programmes have contributed to a significant decline in the unemployment rate for young persons, the proportion of long-term unemployment has continued to rise and now represents around half of total unemployment.

2. The Committee notes that, in its programme for 1993-1997, the Government has set itself the priority objective of "putting the country back to work" by reinforcing incentives to work in the framework of a mixed economy which, with a dynamic role for both the private and public sectors, is the most effective means of promoting employment and raising living standards. This programme emphasizes that support for employment growth is dependent on maintaining control over public finances, since meeting the requirements of the 1992 Treaty on the European Union as regards the budget deficit is the overriding requirement. The Government also states that its active intervention is required to promote job opportunities, particularly in combating long-term unemployment, which has to be the priority of all the social partners. The Committee notes with interest in this respect that the organizations of employers and workers concluded with the Government a new Programme for Competitiveness and Work (1994-1996), which establishes strategies for incomes policy and budgetary and social policies according to their expected impact on employment and unemployment. It notes that the National Development Plan, 1994-1999, which was formulated in consultation with the organizations of employers and workers, establishes the principal objectives of government action to promote employment in the context of an integrated strategy for industrial development and the reinforcement of training. The Government also transmits the first report on the reform of the support enterprise system based on the recommendations of the Industrial Policy Review Group (Culliton report).

3. With reference to its previous observation, the Committee notes the reforms which have been undertaken to reinforce the training system, particularly by placing emphasis on the development of further training activities for workers in employment. The Committee would be grateful if the Government would also supply information in

its next report on the training measures and the other active labour market policy measures implemented by the Government with a view to promoting the reintegration of unemployed persons. It also requests the Government to continue supplying information on any new measure that is taken or envisaged with a view to improving the coordination of education and training polices with employment prospects. In this respect, it draws attention to the complementarity of the provisions of Convention No. 122 with the Human Resources Development Convention, 1975 (No. 142).

4. In conclusion, it would appear that, despite the performance of the economy and the social consensus on the strategies and policies to be adopted for growth and on incomes and employment, it is nevertheless the case that the level of unemployment, and particularly of long-term unemployment, remains exceptionally high in comparison with other European countries. The Committee notes the affirmed will to increase the intensity of employment growth, and notes that the Economic and Social Research Institute has recently re-examined the question of "jobless growth", which it noted in its previous observation. The Committee invites the Government to pursue its efforts to analyse and overcome the difficulties encountered in achieving the objectives of full, productive and freely chosen employment, as set out in the Convention. The Committee hopes that future reports will contain information demonstrating the effectiveness of the policies and programmes pursued in this respect and will confirm the tendency which has been noted for an improvement in the employment situation.

Italy (ratification: 1971)

1. The Committee notes the Government's report for the period ending June 1994, which contains useful and detailed information on changes in the active population, employment and unemployment, as well as the employment policies pursued. The Government states that the severe recession experienced by the national economy in 1993 resulted in the loss of some 700,000 jobs and an increase in the unemployment rate, which was above 11 per cent at the end of the period, compared with 9.7 per cent in October 1992. Due largely to terminations of employment for economic reasons, the rise in unemployment was more accentuated in the south of the country, which further aggravated the regional difference in the employment situation: the unemployment rate in the south is now over ten points higher than the rates in the centre and north. Over 30 per cent of young persons under 25 years of age are unemployed, while long-term unemployment accounts for nearly 60 per cent of total unemployment. The Government emphasizes that this high level of unemployment, with distributional characteristics that give grounds for concern, is combined with other structural weaknesses affecting the Italian labour market. These include an activity rate which is too low and declined still further due to the withdrawal of persons who were discouraged from trying to find their first job or another job, an excessive proportion of self-employment, a large measure of moonlighting, an insufficient level of skills in the workforce and the prevalence of skills which are not adapted to current requirements.

2. The Government states that by subscribing to the obligations of the 1992 Treaty of the European Union and undertaking to meet the economic convergence criteria set out in that treaty, it has agreed to deny itself the use of the traditional instruments for re-establishing the macroeconomic situation, such as the exchange rate, inflation and the public debt, with the result that the principal burden of adjustment now rests on the labour market. It recognizes in this respect that taking the national currency out of the European exchange rate mechanism and its depreciation, although they were imposed by the financial markets rather than sought by the Government, contributed to attenuating

the scale of the recession. In this context and under these constraints, the Government describes the principal objectives of its employment policy, as set out in 1994 in the White Paper "Employment objectives" issued by the Ministry of Labour, which are to promote growth that creates more jobs, render the labour market more flexible and reinforce training activities. It welcomes the conclusion of the agreements of July 1993 on incomes policy, collective bargaining, employment policies and support for productive activities, in which the social partners agreed on common objectives relating to the reduction of the public deficit, the containment of inflation and the promotion of employment, as well as establishing a dual level wage negotiation system, with a view to moderating wage increases. The Committee requests the Government to continue providing information on the measures which have been taken to promote productive activities and employment, in the framework of a coordinated economic and social policy and in consultation with the representatives of all the persons affected.

3. The Committee notes the new provisions implementing employment measures for the regions affected by the crisis. It notes the establishment in this context of an Employment Fund to finance incentives for the maintenance and creation of jobs. The Committee also notes the indications concerning the new functions of promotion, information, assistance and selection for which local employment offices are now responsible. With reference to its previous observation, it notes that the trend for the conclusion of fewer employment-training contracts has been confirmed, but that access to the training and placement system has been extended to young persons under 32 years of age. The Committee requests the Government to continue providing information on the nature and extent of the various labour market policy measures that have been implemented, and to transmit any available evaluation of their effectiveness in terms of the placement of the persons concerned in employment.

Morocco (ratification: 1979)

1. The Committee notes the information supplied by the Government in its report for the period ending June 1994. The Committee notes that, according to the data contained in the National Statistical Yearbook for 1994, the unemployment rate for the active urban population was estimated at 16 per cent in 1992 and 15.9 per cent in 1993 (and around 30 per cent for the age group 15-24). It notes a correlation between the decrease in the unemployment rate for women (21.7 per cent in 1993 compared with 25.3 per cent in 1992) and the decline in their activity rate, which up to then had been increasing regularly. According to the Government, the imbalance between the supply and demand for labour resulting from the growth of the population (although at a rate that is falling substantially) was aggravated over the reference period by climatic conditions which accentuated the rural exodus and increased the pressure on the urban labour market, as well as by other factors related to the economic situation, such as the decline in the market price of phosphates and the increase in interest rates.

2. The Government states that the major aims of its economic policies are to contribute to economic growth and the promotion of employment through public investment, the promotion of private investment, the development of the rural sector and support for the export sector. It emphasizes that the implementation of the structural adjustment programme has made it possible to improve the financial situation of the country and states that the creation of 15,000 new jobs in the public sector as envisaged by the Finance Act of 1994 is part of the recovery process. With reference to its previous observation, the Committee would be grateful if the Government would supply more detailed information in its next report, in reply to the questions contained in the

report form, on the manner in which the measures taken in the various fields of economic policy contribute to the promotion of employment. In particular, it requests the Government to specify the employment objectives of the Social and Economic Organization Plan 1993-97.

3. The Committee notes the establishment of a fund for the promotion of employment of young persons financed through income from privatisation, as well as the adoption of new measures to promote the training of young persons in enterprises. It also notes with interest the information on the results achieved by the programme of loans to young entrepreneurs and would be grateful if the Government would continue to provide detailed information on the various measures adopted for the insertion of young persons into employment and on evaluations of their effectiveness. The Committee also requests the Government to continue providing information on the progressive establishment of the network of employment services.

4. The Government states once again in its report that the consultations required under *Article 3 of the Convention* are held in the framework of the National Council for Youth and the Future (CNJA). With reference to its previous observation, the Committee would be grateful if the Government would supply information on the activities of the CNJA, the recommendations made and the effect given to them, together with extracts of records of meetings or relevant reports. It also notes that the Government refers to the establishment of an Economic and Social Council under the terms of the Dahir of 9 October 1992 to enact the revised Constitution, as well as the establishment under the Dahir of 24 November 1994 of an advisory council to pursue social dialogue. However, the Committee notes that the Organic Act which, under the terms of article 93 of the revised Constitution, is to determine the composition, organization, duties and methods of work of the Economic and Social Council has not yet been adopted. The Committee would also be grateful if the Government would indicate whether the competence of the advisory council to pursue social dialogue covers consultations on employment policy in the sense set out in the Convention. The Committee hopes that the Government will provide further information in this respect in its next report.

5. *Part V of the report form.* The Committee has been informed of an ILO mission in 1994 for the preparation of a second national symposium on employment. It would be grateful if the Government would indicate the action that has been taken or is envisaged as a consequence of this symposium, and any factors which may have prevented or delayed this action.

Netherlands (ratification: 1967)

1. The Committee notes the Government's report for the period ending June 1994, which was characterized by a slowdown in economic activity and a rise in the unemployment rate, which increased from 6.8 per cent in 1992 to 7.5 per cent in 1994. Certain characteristics in the distribution of unemployment give cause for concern, such as the unemployment rate of women, which is nearly double that of men, the incidence of long-term unemployment and the particularly high rate of unemployment (nearly three times higher) among ethnic minorities. Furthermore, the proportion of employment accounted for by part-time work, particularly among women, is continuing to grow. The Government also emphasizes the continued declined in activity rates and the relatively unfavourable ratio between the active and the inactive population in the Netherlands and refers to the link between employment, the number of inactive persons and social security benefits. The Committee notes in this respect that, according to the OECD, the labour market is affected by various forms of underemployment or "non-employment".

2. The Government, which describes the labour market situation as alarming and without real prospects of improvement in the short term, states that it cannot resign itself to unemployment stabilizing at an ever higher level after each recession. It states that its employment policy has to attack the structural causes of unemployment and lead to growth which produces more employment in sectors which are not exposed to international competition, since an employment structure in which there is no place for the least productive workers is socially unacceptable. The principal aims of the policy concern the strengthening of investment in research and infrastructure, the reduction of wage costs through the adoption of a restrictive wages policy and the improved functioning of the labour market by means of greater flexibility in the field of low wages and deregulation measures, such as the abolition of the requirement for prior authorization for dismissals. The Committee also hopes to find in the Government's next report the information which it requested previously on the manner in which the measures adopted in the fields of monetary and budgetary policy contribute to the promotion of employment.

3. The Committee notes that the aims of the Government's policy described above were submitted to the social partners with a view to the adoption of a joint plan of campaign. It notes with interest the Government's analysis that the gravity of the employment and unemployment problem requires a collective approach. It would be grateful if the Government would provide information on the "constructive consultations" that the Government is calling for and the measures which are taken in practice in accordance with the requirements and the spirit of *Article 3 of the Convention*.

4. The Committee notes the multi-year policy framework of the Employment Service and the objectives that it sets for the year 1994-98 with regard to the placement in employment of particular categories of the population, such as women, young persons, members of ethnic minorities and persons with disabilities. It requests the Government to provide any available evaluation of the policy implemented for this purpose and to indicate the extent to which these objects have been achieved and have contributed to promoting those set out in *Article 1, paragraph 2(c)*, of the Convention concerning freedom of choice of employment and the possibility for each worker to qualify for, and use their skills without any discrimination. The Committee also refers in this respect to its comments concerning the application of Convention No. 111.

Norway (ratification: 1966)

1. The Committee notes the Government's report for the period ending June 1994, which was characterized by an improvement in the employment situation as of the second half of 1993. The more sustained level of economic growth made it possible to end the continued tendency reported over previous years for employment to contract. Total employment increased by 1.5 per cent in 1994 and, despite the simultaneous rise in the growth of the active population, the OECD standardized unemployment rate, which had reached 6 per cent in 1993, was reduced to 5.5 per cent. According to the OECD, the growth of employment should continue and should allow the country to return to an unemployment rate of below 5 per cent in 1995.

2. In reply to the request addressed to it by the Committee in its previous observation, the Government provides information on the long-term economic policy programme (1994-97), which was submitted to Parliament under the title the "Solidarity Alternative". The Committee notes with interest in this respect that the strategies decided upon are based in part on the recommendations of the Employment Commission, which includes the social partners. The strategy for increased growth, competitiveness and

employment includes the improvement of the system of wage formation through a two-tier negotiation system aimed at taking into account more effectively the impact of wages on competitiveness, inflation and employment. The creation of employment is also the principal objective of the investment policy and the policy to promote small and medium-sized enterprises, as well as the budget policy, which aims to reduce the medium-term budget deficit in order to give economic policy the necessary margin of manoeuvre to promote employment. The Committee appreciates the careful and helpful replies to its previous comments and welcomes the constructive dialogue. It requests the Government to continue supplying information on the measures that are taken to promote full employment "in the framework of a coordinated economic and social policy" and in consultation with the representatives of the persons affected, in accordance with *Articles 2 and 3 of the Convention.*

3. The Committee notes that the strengthening of active labour market policies and education and training systems are also among the priorities of the Government's employment policy. The Government provides interesting information in its report on the evaluation of the programmes which have been implemented, illustrating that they have had a positive but limited effect on the employment prospects of beneficiaries. The Committee would be grateful if the Government would indicate the manner in which the various measures to intervene on the labour market are decided upon and kept under review dependent upon the results achieved. The Committee also notes the statement that the qualifying conditions for unemployment benefit have been made more restrictive in the case of partial unemployment. In this respect, it requests the Government to continue supplying information on any new measure that is taken to improve the coordination of the unemployment benefit scheme with the employment policy, taking into account the relevant provisions of the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), and the Committee's comments on the application of that instrument.

Papua New Guinea (ratification: 1976)

The Committee notes with regret that for the eighth year in succession the Government's report has not been received. It hopes that a report will be supplied for comments by the Committee at its next session and that it will contain full information in reply to the questions set out in the report form, taking into account its previous comments.

Paraguay (ratification: 1969)

1. The Committee notes the Government's report received in January 1995. The Government indicates that the labour market has been gradually modernizing at a slow but steady pace which is reflected positively in the reduction of self-employed workers and an increase in the number of wage-earners. The national level of unemployment is relatively low but underemployment affects some 48 per cent of the labour force and constitutes "the main problem on the labour market". The reasons for underemployment are demographic and economic, since the economic infrastructure of the formal sector cannot satisfy job demands adequately and the informal sector serves as a refuge for a large percentage of the labour force. Since underemployment has a greater effect on workers in the rural sector, the Government's efforts are concentrated in this area. An economic and social development programme for 1994-98 has the target of creating jobs in more productive activities, increasing productivity and income in backward activities (small urban businesses and micro-businesses and small rural producers), and the

broadening of the job security network. The Committee would be grateful if the Government would specify in its next report if there have been particular difficulties in reaching the employment objectives set out in this programme and indicate to what extent these difficulties have been overcome. It would greatly appreciate information on the situation, level and trends in employment, unemployment and underemployment in the country as a whole and on the extent to which it affects particular categories of workers such as women, young people, indigenous people and rural workers who have difficulty in finding lasting employment and how those workers are affected by industrial restructuring processes.

2. With reference to the comments its has been making for several years, the Committee notes that information has been included in the report on a policy of dialogue and consultation promoted by the Ministry of Justice and Labour. A tripartite negotiating board has been set up whose central themes are wages, the formulation and proposal of employment programmes, and social security. The Committee welcomes this progress in the application of *Article 3 of the Convention* which lays down that representatives of the persons affected shall be consulted concerning the measures to be taken to promote the objectives of full, productive and freely chosen employment. It would be particularly useful for a labour market such as that described by the Government that the consultations required under the Convention should also take place with representatives of workers from the informal and rural sectors and that their participation might be envisaged in the formal consultation machinery mentioned in the report. The Committee would be grateful if the Government would include indications on any new progress made in this matter.

3. In reply to previous comments, the Government states that its prime objective is the development of human resources through training and improvement of employment opportunities. Workers are offered free vocational guidance and training services by the National Employment Service, the Programme of Associated Young Persons Enterprises and the National Service for Vocational Promotion. The Government states that these efforts claim not only to coordinate occupational training policies and activities with real employment prospects but also to ensure that young people in particular and workers in general achieve effective integration into the labour market with a lasting job and/or full productive activity where they can develop to the maximum their potential, as required in Convention No. 122, Convention No. 142 and Recommendation No. 150 on the development of human resources, 1975. The Committee requests the Government to continue supplying information on specific developments in the activities mentioned above in order to ensure that workers who have benefited from the programmes can access the labour market and find lasting employment.

4. In a direct request, the Committee is asking the Government certain questions on other aspects of the application of the Convention related to compilation and analysis of statistics, rural employment and employment in the informal sector.

Portugal (ratification: 1981)

1. The Committee notes the Government's report for the period ending June 1994. In relation with the recession of the economy experienced by the country in 1993, the OECD standardized unemployment rate, which was 4.2 in 1992, rose rapidly during the period to reach 5.5 per cent in 1993 and 6.8 per cent in 1994. Despite the recovery of economic growth to a more sustained rate, the unemployment rate should remain stable in 1995, according to OECD estimates. The characteristics of the distribution of unemployment noted by the Committee in its previous observation have been

consolidated, particularly with regard to young persons, who are affected by an unemployment rate that is twice as high as the overall rate, and as regards the proportion of long-term unemployment, which now accounts for over two-thirds of registered unemployment. The Committee requests the Government to continue supplying as detailed information as possible on the level and trends of the active population, employment, underemployment and unemployment.

2. The Government states that its employment policy is designed to achieve growth and the modernization of productive activity, as well as an improvement in the living conditions of the population, while at the same time remedying imbalances on the labour market by emphasizing the development of human resources. However, the Committee notes that, although the Government describes in detail in its report the various labour market measures adopted, it omits to provide the information required by the report form on the manner in which overall and sectoral economic policies contribute to the pursual of employment objectives. The Committee regrets in this respect that the Government has not provided the information requested previously on the objectives of the Regional Development Plan 1994-99, nor on the implementation of the convergence programme 1992-95. The Committee hopes that the next report will contain full information on the measures adopted in such fields as investment policy; fiscal and monetary policies; and prices, incomes and wages policies, with a view to promoting full, productive and freely chosen employment "as a major goal" and "within the framework of a coordinated economic and social policy, in accordance with the provisions of *Articles 1 and 2 of the Convention*. The Committee also recalls that in its previous observation it requested the Government to provide information on the implementation of the reform of the labour market and its impact on employment.

3. The Committee notes the adoption during the reference period of new measures to strengthen existing machinery for integration and vocational training for employment, including for persons with disabilities. It notes in particular that Decree No. 1324/93 establishes vocational training measures for workers threatened by unemployment, the possibility of including workers approaching retirement age in courses for the vocational integration of the unemployed, financial incentives for self-employment and the recruitment of the long-term unemployed aged over 45 years, as well as individualized attention for unemployed persons under 45 years of age with a view to preventing long-term unemployment. The Committee also notes the data contained in a recent economic survey by the OECD (June 1995), which emphasizes the beneficial effect on the unemployed of participation in vocational training programmes for employment. It requests the Government to supply any new evaluation that is available of the effectiveness of the various labour market policy programmes that have been implemented.

4. The Committee notes the establishment of an Employment and Vocational Training Observatory, which is tripartite in its composition, as is the administrative board of the Employment and Vocational Training Institute (IEFP). The Committee recalls in this respect that the consultations required under *Article 3* of the Convention should cover all the aspects of economic policy which affect employment and should include, in addition to representatives of employers and workers, representatives of other sectors of the economically active population, such as those working in the rural sector. With reference to its previous observation, the Committee requests the Government to indicate whether the Economic and Social Council has examined matters related to the employment policy, in the meaning of the Convention.

Slovenia (ratification: 1992)

1. The Committee notes with interest the Government's very helpful report for the period ending June 1994. In reply to the request addressed directly to it, the Government has provided a set of detailed information which bears witness to its commitment to achieving the objectives of the Convention and make it possible to assess the results of the policies adopted with a view to their achievement.

2. The information provided in the report shows that, following a period of profound recession, still evident in a decline of 5.4 per cent in gross domestic product in 1992, the economy started to grow once again in 1993 and should achieve an annual growth rate of around 5 per cent in both 1994 and 1995. This recovery in the growth rate can largely be attributed to the improvement in the economic situation of the country's principal trading partners, but also to the choice of economic policy, which has allowed the country to benefit fully from the more favourable environment. Reference may be made in this respect to the active policy to stimulate economic activity and employment pursued during the period, which took the form, in particular, of measures designed to reduce the indirect costs of labour for employers and the adoption of a wages policy, under the terms of the general agreement of April 1994 on wages policy in the private sector, to moderate the real growth of wages within the limits of productivity growth. In order to increase employment stability, the Government also made use of fiscal policy, for example penalizing undue recourse to subcontracting and temporary employment. Greater competitiveness in exports encouraged the necessary reorientation of foreign trade. The Government considers that the positive impact of its stabilization policy in terms of a recovery in economic activity, employment and the containment of inflation are now prevailing over the short-term costs of adjustment. It considers that, during the current period of transition to a market economy, the role of the State remains important, particularly to sustain growth through public investment, and that in the longer term the role of the State is linked to the process of the privatization of the economy, which is proceeding at a relatively slow pace at the present time.

3. In this context, the decline in total employment slowed down over the reference period and the unemployment rate, which reached a peak of 15.3 per cent in December 1993, flattened out at 14.4 per cent at the end of 1994. According to the information provided by the Government, this rate may be even lower (9 per cent) taking into account the fact that around 20 per cent of registered unemployed persons may have a job and are not actively seeking employment. The average increase of 40 per cent per month in the number of vacancies between 1993 and 1994 illustrates the recovery of demand for labour and reflects the improvement in the economic situation. However, the Government emphasizes that the large proportion of long-term unemployment (62 per cent of total unemployment in 1994, as compared with 51 per cent in 1992), as well as the continued high rate of unemployment among young persons under 26 years of age (of whom 33.5 per cent were unemployed in 1994, compared with 41 per cent in 1992) and the fact that nearly half of unemployed persons have no skills, are all indicators of the essentially structural nature of unemployment.

4. The Government describes in detail all the active labour market policy measures implemented by the national employment service to prevent and combat unemployment. The Committee notes in particular the emphasis placed on training and the measures to prevent terminations of employment for economic and structural reasons. It also notes the increase in the number of beneficiaries of the programme to promote self-employment, and the facility offered to jobseekers to receive their unemployment benefit in the form of a lump-sum payment so that they can embark upon a self-employed

activity. The Committee also notes that, despite their temporary nature, public works programmes promote the long-term employment of their participants, whereas assignments in enterprises appear to have been less effective. Furthermore, the Committee notes with interest the information provided on the activities and policy of the employment service in the Government's first report on the application of Convention No. 88.

5. The Committee notes the Government's concern that the effectiveness of each of these employment policy measures should be evaluated and that new and more suitable measures should be sought, where appropriate, to regulate the labour market and assist the unemployed. It has also been informed of the Government's intention to hold a tripartite national conference in 1996 to discuss these matters. The Committee requests the Government to continue supplying detailed information on the manner in which employment policy measures are determined and kept under review, within the framework of a coordinated economic and social policy, in consultation with the representatives of the persons affected, in accordance with *Articles 2 and 3 of the Convention*. It hopes that all the policies that are implemented will make it possible to achieve a significant improvement in the employment situation in the near future.

Sweden (ratification: 1965)

1. The Committee notes the Government's report for the period ending June 1994. The Government emphasizes the serious nature of the recession experienced by the country since the beginning of the decade, which has resulted in the loss of over 500,000 jobs and a steep rise in the unemployment rate to unprecedented levels. According to OECD data, the contraction of employment was particularly brutal in 1992 (-4.1 per cent) and 1993 (-6.8 per cent). Despite a significant decrease in the active population, which fell by 1.8 per cent in 1992 and 3.3 per cent in 1993, the unemployment rate reached over 8 per cent in 1993. A modest recovery of growth made it possible to reduce the rate to 7.5 per cent at the end of 1994. However, the OECD notes the low level of creation of regular full-time employment over the most recent period. Furthermore, the proportion of long-term unemployment rose once again, to reach 40 per cent of total unemployment in 1994.

2. The Government considers that this rapid deterioration in the employment situation has to be mainly attributed to the rapid rise in wages and prices during the 1980s, which jeopardized the competitiveness of the economy, while the budget deficit was increasing sharply and interest rates were rising. It states that the flotation of the currency and the measures decided upon in the context of the crisis programme adopted in the autumn of 1992 should improve the competitiveness of exports, but that domestic demand will remain low. With reference to its previous observation, in which it noted the priority accorded by the Government to containing inflation and restoring the balance in public finances, the Committee would be grateful if the Government would indicate in its next report the manner in which the implementation of the main economic policy measures contributes to the promotion ""as a major goal" of full, productive and freely chosen employment.

3. The Government also states that active labour market policy measures remain the principal instrument for combating unemployment, in the framework of its strategy of "work for everyone". It emphasizes that these measures give priority to the integration of the unemployed into the normal labour market or, if that is not possible, in public employment programmes. The Committee notes in this respect the details provided in response to its request for information on the conditions governing the implementation

of the programme of practical on-the-job training for unemployed persons under 25 years of age: participation in this programme is conditional upon the conclusion of a written agreement between the employment service, the employer and the trainee, while the appropriate trade union organization has to be consulted. Noting that this programme covered an average of 56,000 participants during the reference period, the Committee would be grateful if the Government would provide any available evaluation of the results achieved in terms of long-term integration into employment.

4. With reference to its previous observation, the Committee notes the statement to the effect that, in the context of the new consultation procedures established in 1993, the organizations of employers and workers are represented on an advisory council, which comments on the decisions included on the agenda of the Board of the Swedish National Labour Market Administration (AMS). The Committee recalls in this respect that the consultations required by *Article 3 of the Convention* should cover all the aspects of economic and social policy which have an impact on employment. It requests the Government to indicate any measure that has been taken or is envisaged to give full effect to this provision, the importance of which cannot be over-emphasized in a context of high unemployment.

Tunisia (ratification: 1966)

1. The Committee notes with interest the Government's report for the period ending June 1994, which contains valuable information on changes in the employment situation and on the objectives, forecasts and achievements of the VIIIth Economic and Social Development Plan (1992-96). The Committee notes that around 14 per cent of the active population were unemployed in 1993 and that nearly one half of the unemployed were under 25 years of age. The Government states that, in view of the growth of the active population, the creation of new jobs during the first two years of the implementation of the VIIIth Plan was lower than the planned annual average rates required to achieve the objective of an unemployment rate of 13 per cent in 1996. It nevertheless remains confident that this priority objective can be achieved as a result of structural reforms to encourage investment and employment in industry and services, as well as specific measures designed to promote the occupational integration of young persons. The Committee requests the Government to indicate any new general economic policy measure adopted to promote the expansion of employment. In particular, it would be grateful if the Government would indicate the measures that have been taken or are envisaged to ensure that the implementation of the recent association agreement concluded with the European Union has a beneficial impact on the employment situation.

2. The Government reports the harmonization and strengthening during the reporting period of measures to promote the employment of young persons. New measures have been taken to encourage enterprises to recruit the beneficiaries of the various youth employment measures following their training period and, according to the Government, the results achieved bear witness to the improved effectiveness of these measures. The Committee requests the Government to continue supplying detailed information on the evaluation of programmes for the integration of young persons into the labour market and, more generally, on the manner in which education and training policies are coordinated with prospective employment opportunities in the context of the higher school attendance rates. In this respect, the Committee notes the establishment of a National Council for Vocational Training and Employment responsible for issuing opinions and making proposals in the field of employment and training policy. It hopes that the Government will supply full information on the measures proposed by this body

and in reply to the request addressed directly to it concerning the application of the Human Resources Development Convention, 1975 (No. 142). The Committee also notes the implementation of a new integrated programme of support for the creation of employment in backward regions which is designed to combat unemployment and poverty in rural areas through the provision of assistance to young entrepreneurs and increased measures to promote artisans and micro-enterprises. It also requests the Government to indicate the results achieved by this programme in its next report.

3. The Committee notes with interest that the National Council for Vocational Training and Employment, referred to above, includes representatives of employers' and workers' organizations. It requests the Government to indicate whether the Economic and Social Council also examines matters relating to employment policy. The Committee recalls in this respect that the consultations required under *Article 3 of the Convention* should include representatives of the persons affected by the measures to be taken, such as those working in the rural sector and the informal sector, and that they should cover all aspects of economic policy that affect employment.

Turkey (ratification: 1977)

1. The Committee notes the Government's report for the period ending June 1994, which contains detailed information in reply to its previous observation and transmits the observations made by the Confederation of Turkish Trade Unions (TURK-IS) and the Turkish Confederation of Employers' Associations (TISK). The Committee notes that the period of rapid economic growth between 1992 and 1993 did not suffice to create enough jobs to absorb the growth in the active population and contain the rise in the unemployment rate which, according to the OECD, rose from 7.9 per cent in 1992 to 8.7 per cent in 1993. Furthermore, the beginning of the economic recession which, commencing at the end of 1993, resulted in a brutal fall in employment of around 4 per cent in 1994, with the OECD's standardized unemployment rate reaching 10.9 per cent and the rate of underemployment being estimated at 9.3 per cent. The Government further emphasizes in its report the particular significance of urban unemployment and the unemployment of young graduates. The Committee notes that the employment situation, which was already a cause for concern, worsened substantially over the reference period.

2. The Government states that, following a serious monetary crisis due to the worsening of the public deficit, it has been implementing a stabilization programme since April 1994 to reduce the deficit and introduce structural reforms with the view to promoting the medium-term growth of the economy based on free market principles. However, it recognizes that this programme is likely to have the effect at first of causing a recession in economic activity, but considers that the employment promotion policy is dependent on the effectiveness of the economy as a whole. The TISK also emphasizes that it is indispensable to establish, as planned under the Government's programme, a macroeconomic and institutional framework that is conducive to the development of the private sector, which creates employment. The Committee notes that the deterioration in the employment situation worsened during the first months of the implementation of the restrictive measures and requests the Government to indicate in its next report the manner in which, in its opinion, the implementation of stabilization and structural reform measures contributes, "in the framework of a coordinated economic and social policy", to the promotion "as a major goal" of full, productive and freely chosen employment, in accordance with *Articles 1 and 2 of the Convention*. It requests the Government to indicate the employment objectives that it has established in this context, as well as in

the framework of the preparation of the next five-year development plan. Furthermore, the Committee would be grateful if the Government would indicate the expected impact on employment of the coming into force in the near future of the customs union with the European Union.

3. **TURK-IS** considers that the Government is ignoring the objectives set out in the Convention by pursuing a policy of privatization, which is resulting in massive redundancies. In reply to the Committee's previous request on this matter, the Government states that the Privatization Act provides for a separate indemnity for workers made redundant by public enterprises, who also benefit from priority access to employment and vocational training services, and that the Government is endeavouring to find the necessary resources for the creation of new employment opportunities for workers who are to be made redundant as a result of privatization. Noting this information, the Committee hopes that the Government's next report will contain more detailed information on the measures actually implemented for this purpose, as well as details on the number of beneficiaries of such measures. It recalls in this respect that it is essential for redundancies in the public sector to be accompanied by effective measures to promote the employment in the private sector of the workers made redundant as a result of privatization.

4. The Committee notes the information concerning the restructuring and modernization of the employment services. It requests the Government to continue to supply detailed information on the progress achieved in this respect. More generally, the Committee notes the emphasis placed by the Government on the need to train a skilled labour force by strengthening vocational training both within the school system and outside it. The Committee also notes the statement that the Employment Security Bill has been prepared in accordance with the provisions of the Termination of Employment Convention, 1982 (No. 158), which Turkey ratified recently. The Committee has no doubt that the Government will provide full information on this matter in its first report on the application of the above Convention.

5. With regard to the effect given to *Article 3* of the Convention, the Government reports its plan to establish an Economic and Social Council, which will be of an advisory nature and enable the social partners to make known their opinion on matters such as productivity, employment, unemployment and wages. It also refers to the consultation committees envisaged under the 1946 Act establishing the Turkish Employment Office, and states that they have not been fully operational up to the present time. The Committee is bound to note the lack of information on the manner in which, in practice, the representatives of the persons affected, and in particular representatives of employers and workers, are currently consulted concerning employment policies. It is bound once again to emphasize the particular importance that attaches to such consultations being held in the context of the current structural reforms. It trusts that the Government will take the necessary measures in the very near future to give full effect to this fundamental provision of the Convention.

Uganda (ratification: 1967)

1. The Committee notes the Government's report for the period ending June 1994. The Government indicates that due to lack of full information on the employment situation, it has been able, until recent years, to implement only fragmentary measures of the employment policy. It affirms, however, that it is now convinced of the urgency of formulating a global and dynamic employment policy as an integral part of the reforms undertaken at economic level. It mentions the initiatives taken in this regard,

particularly the ILO multidisciplinary consultative mission on employment, which took place in October-November 1994 and of which it is awaiting the report.

2. In addition, the Committee received comments and information on recent developments from the ILO multidisciplinary team in Addis Ababa. The above-mentioned mission was followed by a national tripartite seminar in September 1995 which reaffirmed the need to formulate an employment policy on the basis of the elements set out in the ILO mission report. The Committee notes, in addition, that the Government has made an application for technical cooperation for a mission charged with formulating an employment policy programme in early 1996.

3. The Committee notes with interest the information which demonstrates the complementarity between standards and technical cooperation in the framework of the new structures established by the ILO. It is bound to encourage the Government to pursue its efforts, with ILO technical support, to formulate and apply "as a major goal, an active policy designed to promote full, productive and freely chosen employment", in accordance with *Article 1 of the Convention*. It hopes that the next report will show progress in this direction and will contain information as detailed as possible on the effect given to all the provisions of the Convention (reference may be made to the questions raised in the direct request of 1994). Bearing in mind the aforementioned observations of the ILO multidisciplinary team which stress the acute nature of employment problems and poverty in the context of a strategy of liberalization of the economy and privatization and the vigorous application of a stabilization and structural adjustment programme, the Committee draws attention, furthermore, to the requirement under *Article 2*, to decide on and keep under review employment policy measures "within the framework of a coordinated economic and social policy" and under *Article 3*, concerning the consultation and cooperation of the persons affected (representatives of employers and workers, representatives of other sectors of the active population, such as persons working in the rural and informal sectors).

United Kingdom (ratification: 1966)

1. The Committee notes the Government's comprehensive report for the period ending June 1994, and a communication from the Trades Union Congress (TUC) which was transmitted by the Government and in which the trade union organization gives its observations on the above report. It also notes the information provided to the 80th Session of the Conference (June 1993) and the discussion in the Conference Committee.

2. The Committee notes with interest that the trend of the continued rise in unemployment over the previous period has been reversed. In a context of economic recovery, following a long period of recession, the unemployment rate, which reached 10.5 per cent in December 1992 (14.1 per cent in Northern Ireland), fell back to 9.2 per cent in 1994 (and 13.6 per cent in Northern Ireland). According to the most recent OECD data, this trend of the decline in unemployment has been confirmed and the unemployment rate fell to 8.4 per cent in March 1995. The Government notes that the reaction of the labour market to the improvement in the situation was particularly rapid. However, the TUC draws attention to the decline in activity rates. Furthermore, according to the trade union organization, the moderate recovery in employment rates has to be attributed to the sharp rise in self-employment and an increase in temporary work and part-time work. In its analysis of the employment statistics, the TUC again emphasizes the inequality of ethnic minorities as regards unemployment; in 1993 they experienced unemployment rates two or three times higher than the average, and their situation (particularly with regard to women) has deteriorated further.

3. The Government considers that the results obtained in terms of the decline in unemployment demonstrate the success of its growth strategy which aims to improve the efficiency and competitiveness of the economy by emphasizing its openness to international trade and by lifting excessive regulations that are a burden to trade and harm the labour market. It emphasizes that the priority it gives to containing inflation also contributes to the creation of the necessary conditions for the growth of employment, which remains one of its fundamental objectives, and that a high level of employment cannot be obtained through the application of inflationary policies, as demonstrated by past experience which shows that a boosted demand tends to result in rising inflation and unemployment. The Government also believes that the considerable resources that it is devoting to assisting individuals who are unemployed to find employment and to the modernization of training systems bear witness to the sincerity of its commitment with regard to the principles set out in the Convention. The Committee notes in this respect the detailed information provided on the implementation and evaluation of labour market policy measures. The TUC states that the number of participants in employment and training programmes has declined, as have the resources devoted to active measures, with the Government preferring to rely on measures that are neither costly nor effective, such as jobseekers' programmes. The Committee requests the Government to continue to provide full information on the manner in which the various measures are subject to regular evaluation and review in the framework of a coordinated economic and social policy, on the basis of their results in achieving the objectives set out in the Convention.

4. The major part of the TUC's criticism is directed against the harmful effects of the policy of deregulating the labour market on the quality of the jobs provided. In the opinion of the trade union organization, the so-called flexible employment which the Government is encouraging by promoting temporary and part-time work, is in fact resulting in increased insecurity for workers in precarious, low-paid jobs in which they cannot be represented by a trade union. Furthermore, this insecurity is not conducive to training and the mobility of workers. The Committee notes the improvement in numbers unemployed but recalls in this respect that an employment policy in the meaning of the Convention must not only endeavour to pursue the objective of full employment, but should also ensure that there is "the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he is well suited," without any discrimination (*Article 1, paragraph 2(c), of the Convention*).

5. With reference to its previous observations, in which it expressed its concern at the difficulties in establishing the tripartite dialogue required by *Article 3* of the Convention, the Committee notes the Government's new explanations and its opinion that the fact that one of the social partners holds a different opinion on the means of achieving employment objectives should not be interpreted as implying an absence of consultation. The Government recalls that there are various tripartite institutions in the field of employment policy, but that it regularly reviews institutional arrangements with a view to their usefulness. In this way, it was necessary to abolish the National Economic Development Council (NEDC) when it was concluded that it no longer reflected the needs of the economy. The abolition of the NEDC was supported by the Confederation of British Industry (CBI) and other employers' organizations. The Government indicates that it now gives priority to direct consultations. Furthermore, it considers that in a pluralist society where many interest groups exist, employers and unions cannot hope to represent all the "persons affected" in the meaning of Article 3. The Committee is bound to join with the Conference Committee in recalling in this respect that representatives of employers and workers have a special interest in

collaborating in the formulation of employment policies. It trusts that consultations with the other persons affected, as described by the Government, do not take place to the detriment of dialogue with the principal recognized social partners.

Uruguay (ratification: 1977)

1. The Committee notes the Government's report for the period July 1992 to July 1995, which was received in September 1995. The Government provides a detailed report on the situation as regards employment, underemployment and unemployment in Montevideo and other urban areas, where the unemployment rate appears to have remained relatively stable (around 10 per cent, according to the data available for 1994-95). Precarious employment is reported to be over 15 per cent, while 20 per cent of active workers are engaged in micro-enterprises. The report also indicates that the rate of inflation in Uruguay is the highest of MERCOSUR (and the second highest on the American continent, with an annual rate of 44 per cent in 1994, which was lower than the 1992 rate of 59 per cent). Since March 1995, a new Government has been examining a significant reform of the State, which will also cover the reform of the social security system. The Government also states that an about turn is being made with respect to the previous administration, and that it has explicitly resolved to promote the development of the manufacturing industry for exports through the use of measures to improve its competitiveness and compensate for the negative impact of an outdated exchange policy over recent years. Among the incentives planned to improve the competitiveness of industry, it refers to a reduction in social security contributions, the reimbursement of indirect taxation for exports and a reduction in the financial costs of exports. The Committee notes the above and requests the Government to include information in its next report on the extent to which the employment objectives that have been set are achieved through the adoption of measures in fields such as fiscal and monetary policy, trade policy and investment policy. The Committee recalls that in its previous comments it referred to Part IX of the Employment Policy (Supplementary Provisions) Recommendation, 1985 (No. 169), to draw the Government's attention to the need for an equitable distribution of the social costs and benefits of structural adjustment. In this respect, it would be particularly valuable if the Government would supplement the information provided in the report with indications of the procedures adopted to guarantee that account is taken of their impact on employment when macroeconomic policies, such as those referred to by the Government, are formulated and applied.

3. The Committee notes with interest that Act No. 16320, dated 10 November 1992, established a National Directorate of Employment in the Ministry of Labour and Social Security, with explicit responsibility for formulating the national employment policy, proposing and implementing programmes of occupational and professional guidance, developing programmes of technical guidance and assistance for workers who wish to become small entrepreneurs, etc. A National Employment Board that is of tripartite composition will have the function of advising the National Directorate of Employment, designing retraining programmes for the workforce and administering the Occupational Retraining Fund. This Fund will support activities such as the provision of courses for the vocational retraining of workers and the provision of a one-off benefit to workers who follow retraining courses. With reference to its previous comments, the Committee appreciates the information in the Government's report that progress is being made with regard to consultations, which mainly focus on wages. The Committee welcomes this progress in the application of *Article 3 of the Convention*, which requires the consultation of the representatives of the persons affected by the employment policy

measures to be taken with a view to promoting the objectives of full, productive and freely chosen employment. It would be particularly relevant, in a labour market such as the one described in the Government's report, for the consultations required by the Convention also to be held with representatives of workers in the informal sector and the rural sector, with a view to their eventual participation in the formal consultation machinery described in the report. The Committee would be grateful if the Government would provide information on the measures taken and the results achieved in the field of employment as a result of the action carried out by the National Directorate and Board of Employment, as well as by the Occupational Retraining Fund.

3. The Committee also notes with interest the numerous references made to the technical cooperation received by the Government from the ILO in the field of employment. In this respect, reference should be made to the priorities identified by the National Director of Employment to the multidisciplinary advisory team in the field of employment. The assistance of the ILO will be sought in the fields of occupational guidance for women, advice on the formulation of employment policies for extremely poor categories of the population, the implementation of strategies relating to employment in the informal sector, the formulation of strategies concerning migration for employment in the context of regional integration, and the establishment of technical expertise for the formulation and implementation of employment policies. Since these are aspects covered directly by the Convention, the Committee hopes that the assistance and advisory services required will be provided as soon as possible with a view to further promoting the application of its provisions. In this respect, the Committee requests the Government to describe fully in its next report the action undertaken, with an indication of any factors which may have prevented or delayed the action planned in the field of employment policy in cooperation with the ILO (*part V of the report form*).

4. The Committee also notes the assistance received by the Government from other bodies, such as CINTERFOR-ILO, for the training of persons receiving unemployment benefit; the Inter-American Development Bank, through a programme to reinforce social policy; and the German technical cooperation agency (GTZ) for the introduction of the dual training system. The Committee trusts that in these activities account is also taken of the instruments most directly related with Convention No. 122, such as the Human Resources Development Convention (No. 142) and Recommendation (No. 150), 1975, and the Employment Promotion and Protection against Unemployment Convention (No. 168) and Recommendation (No. 176), 1988. The Government may consider it useful to refer to the above instruments when including information in its next report on the results of the measures taken to coordinate its unemployment insurance scheme with its employment policy, as well as with regard to the close relationship existing between vocational guidance and training and the employment policy measures adopted.

Venezuela (ratification: 1982)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> With reference to its previous comments, the Committee notes the detailed information contained in the Government's report. The Government refers to the results achieved through the structural adjustment measures which have been applied since 1989 and have made it possible to re-establish a macroeconomic balance and attain sustained growth of production. The Government states in its report that a high proportion of workers in the informal sector of the economy do not enjoy the desirable working conditions of stability and an adequate income, that the unemployment rate remains at a high level, and that there is pressure for greater flexibility and deregulation of the labour market. The Committee notes that the

Organic Labour Act of 1990 states that everybody has the right to work (section 24) and that the State shall make every effort to create and encourage conditions favourable to raising the level of employment to the greatest possible extent (section 25). As it has been doing for several years, the Committee proposes to continue the dialogue by directly requesting the Government to supply information on various aspects of the impact on employment of the measures adopted under structural adjustment programmes, the revision of these measures within the context of a coordinated social and economic policy, and the consultations which have been held with representatives of the persons affected concerning the employment policy *(Articles 1, 2 and 3 of the Convention)*.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Austria, Azerbaijan, Barbados, Cambodia, Cameroon, Chile, Comoros, Croatia, Cyprus, Djibouti, Ecuador, Greece, Guatemala, Guinea, Islamic Republic of Iran, Iraq, Israel, Jamaica, Japan, Lebanon, Libyan Arab Jamahiriya, Madagascar, Mauritania, Mongolia, Panama, Papua New Guinea, Paraguay, Philippines, Senegal, Sudan, Tajikistan, Ukraine, Venezuela, Yemen*.

Convention No. 123: Minimum Age (Underground Work), 1965

A request regarding certain points is being addressed directly to *Turkey*.

Convention No. 124: Medical Examination of Young Persons (Underground Work), 1965

Requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Gabon, Kyrgyzstan, Madagascar, Tajikistan, Uganda*.

Convention No. 125: Fishermen's Competency Certificates, 1966

Sierra Leone (ratification: 1967)

In earlier comments the Committee noted that there exist no laws or regulations to give effect to the Convention. The Committee recalled the Government's earlier statement that the fishing industry is carried out mostly by vessels of less than 25 GRT not covered by the Convention and its indication that in so far as there may be larger vessels to which the Convention applies, efforts were being made to obtain information from the responsible authorities. The Committee also recalled that under section 57(n) of the Fisheries Management and Development Bill, the Minister would have the power to prescribe qualifications for manning of fishing vessels and thus to draft regulations to apply the Convention. The Committee notes the information provided by the Government in its latest report that it has formulated new regulations for the fishing industry which would incorporate the Committee's comments. The Committee hopes that the Government will provide information on the measures adopted.

Convention No. 126: Accommodation of Crews (Fishermen), 1966

Panama (ratification: 1971)

The Committee notes the Government's reports indicating that the draft text of the Labour Act respecting navigable seaways and waterways has not yet been adopted but that a tripartite national commission will be established for the purpose, inter alia, of harmonizing this draft with ratified maritime Conventions. It also notes the statistical data concerning inspections carried out by the Office of Maritime Safety (SEGMAR), and by the Labour Inspectorate of the Ministry of Labour and Social Welfare. It observes that the inspections carried out by SEGMAR showed shortcomings as regards maintaining the sick bay and medicine chest *(Article 13 of the Convention)* as well as the galley *(Article 16, paragraphs 1 and 5)*. It would be grateful if the Government would continue to provide information on the results of these inspections, in particular, including specific data on fishing vessels in regard to application of the provisions of the Convention (point V of the report form).

Furthermore, the Committee repeats its request that the Government should take the necessary measures to adopt as soon as possible the above-mentioned draft text on employment at sea which contains some of the contents of resolution 603-04-118-ALCN of 1988 and resolution 614-257-ALCN of 1984, giving effect to the Convention.

[The Government is requested to supply a detailed report in 1996.]

* * *

In addition, a request regarding certain points is being addressed directly to *Sierra Leone*.

Convention No. 127: Maximum Weight, 1967

Chile (ratification: 1972)

The Committee notes the information supplied by the Government in its report.

Article 3 of the Convention. In its previous comments, the Committee noted that Circular No. 30 of 4 December 1985, from the Director of Labour to the regional directors of labour and the provincial and communal labour inspectors, lays down instructions on the maximum weight that may be transported manually by workers. This Circular gives effect to *Articles 3, 4 and 7, paragraph 2*, of the Convention by reducing the maximum weight of a load permitted to be transported manually to 55 kg, which is the weight recommended in Recommendation No. 128, and by specifying that the maximum weight that women and young workers are authorized to transport shall be substantially less than that permitted for men.

The Committee requested the Government to indicate:

- whether sections 57 and 252 of Presidential Decree No. 655 of 7 March 1941, issuing general regulations on occupational safety and health, which fix a maximum weight of 80 to 86 kg, have been repealed and, if so, by virtue of which provisions; and
- whether the Circular has been published and distributed to employers, workers, the courts and all other persons concerned.

Article 6. The Committee noted that section 8 of Circular No. 30 prescribes that mechanical devices shall be used for the transport of loads weighing over 55 kg. While this represents an improvement over the formal weight limit of 80 kg for the use of such devices to be required, the Committee points out that *Article* 6 of the Convention requires suitable technical devices to be used as much as possible, and not only for loads over the 55 kg weight limit. The Committee requested the Government to indicate the measures taken or envisaged in order to apply fully this provision of the Convention.

Article 7, paragraph 1. The Committee noted that section 4 of Circular No. 30 does not provide that the assignment of women and young workers to the manual transport of loads other than light loads shall be limited. The Committee expressed the hope that the Government would take the necessary measures to ensure full compliance with this provision of the Convention.

Article 7, paragraph 2. The Committee also noted that section 4 of Circular No. 30 prescribes that the maximum weight of loads for women and young workers shall be substantially less than that permitted for men, without specifying maximum limits. It requested the Government to indicate whether weight limits have been prescribed or are envisaged in this regard.

The Committee noted the Government's statement that its observations have been transmitted to a special commission which is examining the draft general regulations to be issued under the Labour Code. It notes the information supplied by the Government in its latest report to the effect that these draft regulations have not yet been adopted. Through its medical department, the social security administration has proposed that the maximum weight should be set at 50 kg, while the Chilean Safety Association, which is one of the mutual benefit societies of employers that administers social assistance in the field of employment injury, has proposed 55 kg. The Government considers that it would be appropriate to consult the Ministry of Health in this respect.

The Committee notes the Government does not provide other explanations concerning the provisions which are currently applicable.

The Committee trusts that measures will be taken in the very near future to clarify the situation in law and that the Government will provide full information on the measures which have been adopted in relation to the points raised in its previous comments, to which the Committee refers above in relation to the application of Articles 3, 6 and 7, paragraphs 1 and 2, of the Convention.

[The Government is asked to report in detail in 1997.]

Madagascar (ratification: 1971)

The Committee notes the adoption on 25 August 1995 of a new Labour Code (Act No. 94-029), under section 208 of which the provisions respecting occupational health and safety of the 1975 Labour Code remain in force. The Committee also notes the information provided by the Government in its report to the effect that the national Assembly has adopted a Code respecting health, safety and the working environment and that the texts to be issued under this code, which are currently being prepared, will take into account the provisions of the Convention. The Committee recalls that its previous comments concerned the following matters:

> In the comments that it has been making for a number of years, the Committee notes that measures have not yet been taken to limit the weight of loads that may be transported by adult male workers.
>
> Even before the adoption of the Labour Code in 1975, the Government had announced in its reports that texts to apply the Code would include a text to give effect to this Convention. In a report received in 1983, the Government confirmed this undertaking.

although it pointed out that factories manufacturing jute and plastic sacks for rice, flour, etc., now respected the standard of 50 kg, and that the old sacks of 70 or 75 kg were disappearing since they were no longer being manufactured in Madagascar. In its report for the period ending 30 June 1986, the Government indicated that the above information concerning the current standardization of sacks manufactured locally remained valid and that this practice would be laid down in regulations.

The Committee noted that, according to the Government's report received in 1989, and the two letters signed by the Minister of the Civil Service, Labour and Labour Legislation in 1988, which were attached to the report, in practice factories, traders, transporters and farmers use sacks of 90, 75 or 70 kg, which are generally manufactured locally, even though certain enterprises which are the principal manufacturers of these articles currently respect the standard of 50 kg. Consequently, the use of sacks that are in conformity with the requirements of international standards would, in the opinion of the Government, give rise to problems at the level of manufacture and consumption and would create difficulties as regards production costs and prices for manufacturers, users, producers and rural workers. In a letter addressed in November 1988 to the social partners, the Minister invited them to recommend production units "in order to avoid the harmful effects of the immediate application of the Convention in national law and so as not to be in opposition with the country's undertakings at the international level", to manufacture, by stages, sacks of 55 kg or 65 kg and to launch them progressively onto the market as they are produced.

The Committee recalls that by virtue of *Article 3 of the Convention*, no worker shall be required or permitted to engage in the manual transport of a load which, by reason of its weight, is likely to jeopardize his health or safety. This rule does not provide for any exceptions on the grounds of production costs or prices or for any other reason. The Committee noted that it was more than 20 years since Madagascar ratified the Convention. For several years, the Government has been undertaking to lay down in regulations the current practice adopted by the principal manufacturers of sacks which will respect the standard of 50 kg. In these circumstances, it considers that the Government's letter recommending the production of sacks of up to 65 kg constitutes a serious retrogression.

The Committee trusts that the Government will indicate in the near future the measures which have been taken to ensure that the Convention is applied to adult workers and that it will provide copies of the provisions that have been adopted, including a copy of the Code respecting health, safety and the working environment, when it has been enacted.

Convention No. 128: Invalidity, Old-Age and Survivors' Benefits, 1967

Requests regarding certain points are being addressed directly to the following States: *Ecuador, Germany, Venezuela.*

Convention No. 129: Labour Inspection (Agriculture), 1969

Bolivia (ratification: 1977)

The Committee notes the information contained in the Government's report to the effect that the preliminary draft of the new General Labour Act has incorporated the agricultural sector into the scope of its provisions through the abolition of the exception covering agricultural work contained in the current legislation. It also notes that measures will be adopted to establish a system of inspection covering all agricultural enterprises under the regulations that are to be issued under the Administrative Reform Act No. 1493 of 17 September 1993, known as the Executive Authority Ministries Act. With reference, *mutatis mutandis*, to its comments on the application of Convention No. 81, the Committee trusts that the Government will take the necessary measures in the near future to give full effect to the provisions of this Convention.

Burkina Faso (ratification: 1974)

With reference to its previous comments, the Committee notes with satisfaction that section 218 of Act No. 11/92/ADP of 22 December 1992 to issue the Labour Code provides that labour inspectors shall bring to the attention of the competent authority defects or abuses not specifically covered by existing legal provisions, thereby giving effect to Article 6, paragraph 1(c), of the Convention.

The Committee is addressing a request directly to the Government on certain other matters.

Syrian Arab Republic (ratification: 1972)

Article 16, paragraph 3, of the Convention. The Committee recalls that for many years it has been asking the Government to amend section 248 of the Act to organise agricultural relations so as to provide for the notification not only of the employer or his representative of an inspector's presence at the workplace, but also the workers or their representatives. It notes the information that the amendment has not yet been adopted but that the Ministry of Labour has requested the competent authority to take the necessary measures for its adoption. The Committee trusts the Government will not fail to ensure that the said amendment is adopted shortly and a copy of the adopted text communicated.

Articles 26 and 27. Further to its previous comments, the Committee notes with interest that the annual inspection report for 1992 contains all the particulars listed in Article 27 (a) to (g) of the Convention. It notes however that this report for 1992 was only received by the Office in 1995. The Committee would like to point out that such reports should be published within a reasonable time after the end of the year to which they relate and in any case within the following 12 months, and copies should be transmitted to the Director-General within three months after their publication (Article 26, paragraphs 2 and 3). The Committee hopes the Government will take the necessary measures in this respect.

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In addition, requests regarding certain points are being addressed directly to the following States: *Burkina Faso, Guyana*.

Convention No. 130: Medical Care and Sickness Benefits, 1969

Ecuador (ratification: 1978)

Referring to its previous comments, the Committee notes with satisfaction that pursuant to resolution No. 750 of 5 February 1991, the Superior Council of the Ecuador Institute of Social Security (IESS) has abrogated sections 91 and 92 and modified section

90 of the codified statutes of the IESS, thereby extending full medical and dental care and pharmaceutical assistance to the recipients of old-age and invalidity benefits, in conformity with *Article 12 of the Convention*.

Libyan Arab Jamahiriya (ratification: 1975)

With reference to the comments which it has been making for a number of years, the Committee notes with regret that the Government's report has not been received for the second consecutive time. It recalls that the previous information supplied by the Government contained only partial responses and did not include the statistics called for in the report form adopted by the Governing Body. As without this information it is impossible for the Committee to assess the extent to which effect is given to the provisions of the Convention, it once again raises the matter in a direct request in the hope that the Government will not fail to supply the information requested.

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In addition, requests regarding certain points are being addressed directly to the following States: *Ecuador, Germany, Libyan Arab Jamahiriya, Slovakia*.

Convention No. 131: Minimum Wage Fixing, 1970

Costa Rica (ratification: 1979)

The Committee refers to the comments made by the Confederation of Workers Rerum Novarum (CTRN) pointing out the very long working hours effected without additional pay in the road transport sector, resulting in an excessively low wage rate per hour. It notes the detailed report provided by the Government in reply in the above observations.

The Committee notes the references made by the Government to the labour courts, which previously granted to workers in the road transport sector treatment that was less favourable than that enjoyed by other workers under section 146 of the Labour Code, by virtue of which working hours in the transport sector were to have been governed by special provisions that have never been adopted. The labour courts, applying the principle whereby the interpretation of labour legislation has to be based on the most favourable provisions (section 17 of the Labour Code), now agree to accord to drivers the benefit of sections 136 and 139 of the Labour Code establishing the normal working day at eight hours and requiring additional remuneration of 50 per cent for overtime hours.

The Government also recalls that under the terms of section 163 of the Labour Code, although wages are determined freely, they cannot be lower than the minimum wage prescribed by law. The Committee also notes Decree No. 23847-MTSS of 29 July 1995 which fixes, among other sectors, the minimum wage in force in the road transport sector. The Committee notes that, by virtue of section 3 of the above Decree, the minimum wages fixed in the Decree refer to the normal working day, in accordance with Title III, Chapter II, of the Labour Code, with the exception of cases in which another unit of measurement is used. The Committee notes with interest the Government's statement that section 146 of the Labour Code, which refers to special provisions that have never been adopted, is being modified in consultation with employers and workers.

The Committee requests the Government to provide copies of examples of relevant judicial decisions illustrating the case law and to provide information on any developments in this respect.

The Committee is also addressing a request directly to the Government on another matter.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Costa Rica, Guatemala, Libyan Arab Jamahiriya, Nepal.*

Convention No. 132: Holidays with Pay (Revised), 1970

Requests regarding certain points are being addressed directly to the following States: *Cameroon, Italy, Madagascar, Spain, Yemen.*

Convention No. 133: Accommodation of Crews (Supplementary Provisions), 1970

France (ratification: 1972)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes that the Government's report, received in June 1994, does not contain detailed information which would enable it to conduct a first examination on the application of the present Convention. It therefore asks the Government to provide a detailed report containing precise and full answers to the questions in the report form approved by the Governing Body, including under *points IV and V.*

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Guinea, Lebanon.*

Convention No. 134: Prevention of Accidents (Seafarers), 1970

Costa Rica (ratification: 1979)

The Committee notes the Government's statement that it will keep it informed of the measures adopted to give effect to the Convention. The Committee hopes that the Government will make every effort to adopt the necessary measures in the near future and that it will take into account the comments made previously.

1. In the comments that it has been making for a number of years, the Committee has pointed out that the national legislation contains no special provisions on accident prevention for seafarers within the meaning of the provisions of the Convention. The Committee has noted several times that section 283 of the Labour Code, as amended by Act No. 6727 of 9 March 1982, provides that detailed regulations on occupational health must be issued within one year at the most, and it expressed the hope that such regulations, or any other appropriate provisions on accident prevention for seafarers, would be adopted and would cover the points set out in *Article 4, paragraphs 2 and 3, of the Convention*, and that the text would apply to all seafarers, including those engaged on fishing vessels, in accordance with *Article 1, paragraph 1*.

In its report received in 1988, the Government stated that the regulations in question were in the process of being drafted and would be sent to the ILO as soon as they had been enacted. Since then, the Government has merely referred to its previous reports and the information contained therein. The Committee is bound to express the hope once again that the necessary provisions will be adopted and will be transmitted to the Office in the very near future.

2. In its previous comments, the Committee drew the Government's attention to the need to adopt appropriate measures to give effect to the following provisions of the Convention.

Article 2 (compilation of statistics on occupational accidents among seafarers and investigation into the causes and circumstances of such accidents).

Article 3 (inquiries and research into occupational accidents among seafarers).

Article 6, paragraph 3 (training of labour inspectors responsible for inspecting ships with regard to living conditions on board and the hazards involved).

Article 7 (setting up of the joint health committees provided for by Decree No. 18379-TSS).

Article 8 (plans and programmes of the National Occupational Health Council in so far as they relate to the questions covered by the Convention).

In its report for 1988, the Government referred to the difficulties created by the total restructuring of the computer system of the National Insurance Institute and the reorganization of the National Occupational Health Council, and asked for more time so that the necessary measures to ensure the application of these provisions of the Convention could be adopted. Since then, it has sent no fresh information on the matter. The Committee hopes that the Government has made good use of the intervening years and that in the very near future it will report on the measures which have been taken to give effect to the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: ***Russian Federation, United Republic of Tanzania***.

Convention No. 135: Workers' Representatives, 1971

Costa Rica (ratification: 1977)

The Committee notes the Government's report and recalls that in its previous comments it requested it to provide information on the facilities afforded in practice under the terms of *Article 2 of the Convention* to workers' representatives in public and private sector enterprises, either under the terms of collective agreements or in any other form.

The Committee notes the facilities afforded under the terms of collective labour agreements to workers' representatives in enterprises in the public and private sectors and is grateful for the transmission of the texts of various collective agreements.

The Committee hopes that the Government will continue to provide full particulars on the facilities afforded in practice to workers' representatives in both the private and public sectors.

Rwanda (ratification: 1989)

While noting the Government's report, the Committee regrets that it does not provide any new information and the Committee is therefore bound to reiterate the comments that it has been making for a number of years on the following issue:

> *Article 4 of the Convention.* The Committee recalls that by virtue of section 160 of the Labour Code, the Minister of Labour shall, by an order made on the advice of the Labour Advisory Board, prescribe, inter alia, the minimum number of workers above which, and the category of establishments in which, the election of staff representatives shall be compulsory; the number of representatives and their distribution among the various occupations; the procedure of elections; the conditions to be fulfilled by electors and candidates for election. Regretting that the Government confines itself to indicating in its report that a study concerning such an order is still being carried out, the Committee expresses the firm hope that the Government will be able to supply information on the results of this study in its next report and that it will forward the text of any order which is adopted under section 160 of the Labour Code.

* * *

Requests regarding certain points are being addressed directly to the following States: *Australia, Italy, United Kingdom, Yemen.*

Information supplied by *Slovenia* in answer to a direct request has been noted by the Committee.

Convention No. 136: Benzene, 1971

Côte d'Ivoire (ratification: 1972)

With reference to its previous comments, the Committee notes with satisfaction that Decree No. 95-307 of 1 March 1995 to amend the Labour Code (regulations) gives effect to *Article 1; Article 2, paragraph 1; and Article 8, paragraph 1, of the Convention.*

The Committee also notes the amendments made by the same Decree to the provisions of the Labour Code (regulations) to which the Committee had referred previously with regard to the application of *Article 6, paragraph 2, and Article 11,* *paragraph 2*. The Committee is addressing a request directly to the Government in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Côte d'Ivoire, Malta*.

Convention No. 137: Dock Work, 1973

A request regarding certain points is being addressed directly to *Afghanistan*.

Convention No. 138: Minimum Age, 1973

General observation

The Committee notes the discussion at the latest session of the Governing Body (264th Session, November 1995) on child labour, in particular in its Committee on Employment and Social Policy, during which growing interest in and concern in regard to child labour among the constituents were demonstrated and reference was made to ILO action including in the field of the application of standards.

The Committee recalls that, by virtue of *Article 1 of the Convention*, the ratifying States undertake to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work. It requests the governments to give full information on the relevant policy currently pursued and measures taken or contemplated in application of such policy, in particular:

- facilities for education and vocational orientation and training;
- economic and social measures to ensure family living standards and income which are such as to make it unnecessary to have recourse to the economic activity of children;
- social security and family welfare measures aimed at ensuring child maintenance;
- facilities for the protection and welfare of children and young persons.

Recalling also that *Article 2(3)* provides that such minimum age should not be less than the age of completion of compulsory education, and that the extension and improvement of schooling appears to be one of the effective ways to combat child labour, the Committee would particularly welcome information on measures taken with regard to ensuring basic compulsory education and their effects on the application in practice of this Convention.

The Committee would also appreciate information on the manner in which the Convention is applied, and on the measures taken accordingly, in the sectors excluded from the scope of general provisions on labour, particularly provisions relating to minimum age, as is often the case, for example, of the agricultural, maritime and fishing sectors and the domestic service.

Dominica (ratification: 1983)

The Committee notes with regret that the Government's report does not contain any information in reply to the previous comments. It recalls that the Government has been asked to indicate the measures taken or envisaged to give effect to several provisions of the Convention since its ratification. The Committee points out in particular that the minimum age for admission to employment or work, which was specified to be 15 years when Dominica ratified the Convention, has not been ensured in the national legislation.

The Committee strongly hopes that a detailed report will be supplied and that it will contain full information on the matters that have been raised and which the Committee repeats once again in a request directly addressed to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Dominica, Guatemala, Libyan Arab Jamahiriya, Romania*.

Convention No. 139: Occupational Cancer, 1974

Requests regarding certain points are being addressed directly to the following States: *Afghanistan, Brazil, Iceland*.

Convention No. 140: Paid Educational Leave, 1974

A request regarding certain points is being addressed directly to *San Marino*.

Convention No. 141: Rural Workers' Organizations, 1975

A request regarding certain points is being addressed directly to *Guatemala*.

Convention No. 143: Migrant Workers (Supplementary Provisions), 1975

Requests regarding certain points are being addressed directly to the following States: *Cameroon, Cyprus, Italy, Sweden, Uganda*.

Convention No. 144: Tripartite Consultation (International Labour Standards), 1976

Bahamas (ratification: 1976)

The Committee notes the Government's report. It notes that it contains little information by way of response to the comments that it has been repeating since 1990. The information supplied under *Articles 2 and 5* is insufficient to assess the extent to which the provisions of the Convention are applied.

Although noting that consultations were held within the Joint Tripartite Advisory Committee and with the representative organizations of employers and workers on draft amendments to the Industrial Relations Act, the Committee recalls that the Convention covers primarily tripartite consultations to promote the implementation of international labour standards.

It emphasizes that *Article 2, paragraph 1, of the Convention* obliges each Member of the ILO that has ratified the Convention to operate procedures which ensure effective consultations between representatives of the Government, of employers and of workers with respect to the matters concerning the activities of the ILO enumerated in *Article 5, paragraph 1*.

In its 1982 General Survey on tripartite consultation (international labour standards), para. 44, the Committee defined effective consultations as consultations which enable employers' and workers' organizations to have a useful say in matters relating to the activities of the ILO referred to in the Convention and in Recommendation No. 152.

Such consultations should therefore be held prior to any decision by the Government on the matters enumerated in Article 5, paragraph 1, although the opinions expressed by the organizations are not binding in this respect.

The Committee requests the Government to supply information in the light of these comments illustrating the effective nature of the consultations covered by the Convention or to take all necessary measures in this respect.

Recalling that certain matters (replies to questionnaires, submission to the competent authorities, reports to be made to the ILO under article 22 of the Constitution) require annual consultations, while others (for example, proposals for the denunciation of ratified Conventions) need less frequent examination, the Committee once again requests the Government to provide, as requested in the report form on the Convention, detailed information on the consultations held during the period covered by the last report on each of the matters set out in points (b) and (d), and for the period covered by the next report on each of the matters covered by Article 5, paragraph 1.

This information should include the precise purpose of the issues which have been examined, the frequency of consultations and the results of the consultations.

Finally, the Committee recalls that, in accordance with *Article 6*, the organizations of employers and workers have to be consulted on the need to issue an annual report on the working of the procedures provided for in the Convention. If such consultations have not been held, the Committee would be grateful if the Government would hold them as soon as possible and provide information in its next report on their results.

Côte d'Ivoire (ratification: 1987)

The Committee notes the information supplied by the Government in reply to its previous comments.

In particular, it notes with interest Order No. 834 of 26 January 1995 establishing a tripartite committee on matters concerning the ILO with the exclusive function of issuing opinions on each of the matters set out in *Article 5, paragraph 1, of the Convention*.

The Committee notes that the tripartite committee will meet quarterly and will produce an annual report of which a copy will be sent to the ILO, in accordance with Article 6. The Committee hopes that this consultative body will be fully operational in the near future and that the Government will be able to supply complete and detailed information on the consultations which have taken place during the period covered by the next report on the matters covered by the Convention.

Ecuador (ratification: 1979)

The Committee notes the Government's report and the indications provided with reference to the previous comments.

1. The Committee recalls that in its previous comments, referring to the observations made by a workers' organization, it noted that the consultations carried out in writing could be effective and expressed its confidence that the Government would be able to organize, in the near future, consultations which would be "effective" within the meaning of Article 2 of the Convention. The Government states that the Convention cannot make the Government responsible for the negligence and lack of interest shown by the organizations consulted which did not reply to consultations conducted in writing; the problem is not the form in which the consultation is carried out but the attitude of the participants in the procedures on this topic. The Committee notes the above, expressing its firm hope that the Government's efforts will be redoubled to ensure that the effective consultations required by the Convention take place to the satisfaction of all. It would be grateful if the Government would include in its next detailed report on the application of the Convention the information required in respect of consultations conducted on each of the points set out in Article 5, paragraph 1, in particular regarding the consultations at appropriate intervals on the re-examination of unratified Conventions and of Recommendations to which effect has not yet been given (paragraph 1(c)), and on questions which may arise out of reports to be made to the International Labour Office under article 22 of the ILO Constitution (paragraph 1(d)).

2. The Government indicates that the technical cooperation project on the promotion of dialogue and social consultation is still under discussion. The Committee requests the Government, as it does in relation to the application of other Conventions (see for example the observation on Convention No. 122), to supply indications on the progress made in this matter.

India (ratification: 1978)

The Committee notes the Government's report for the period ending 30 June 1994. With reference to its previous comments, it notes with interest that the Tripartite Committee on Conventions, reconstituted in 1992, held two meetings in 1993. It also notes the information on the consultations held on several of the matters set out in *Article 5, paragraph 1*, of the Convention, and particularly on the review of certain fundamental or priority unratified ILO Conventions (Conventions Nos. 105, 122, 129, 138). The Committee would be grateful if the Government would continue to supply in its subsequent reports regular information on the consultations held during the periods covered on each of the matters set forth in Article 5, paragraph 1(a) to (e), including information on their frequency and to specify the nature of any reports or recommendations resulting from these consultations. Please also indicate which consultations were carried out through the Tripartite Committee on Conventions and which were conducted by written communications.

Sierra Leone (ratification: 1985)

The Committee notes the Government's report. It notes the statement in reply to its previous comments that the Joint Consultative Committee has met several times to debate the new labour legislation.

The Committee wishes to recall that the tripartite consultations referred to in the Convention are essentially designed to promote the implementation of international labour standards and concern, in particular, the matters defined and set out in *Article 5, paragraph 1, of the Convention*.

The Committee therefore requests the Government to supply for the period covered by its next report full and detailed information on any tripartite consultations held, including their frequency, on the subject of:

(a) government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference;

(b) the proposals to be made to the competent authority or authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the Constitution of the International Labour Organization;

(c) the re-examination at appropriate intervals of unratified Conventions and Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate;

(d) questions arising out of reports to be made to the International Labour Office under article 22 of the Constitution of the International Labour Organization;

(e) proposals for the denunciation of ratified Conventions.

The Government is also requested to indicate the nature of any reports or recommendations made as a result of such consultations.

Spain (ratification: 1983)

The Committee notes the comments received from the Trade Union Federation of Workers' Commissions (CC.OO.) in May 1995 and from the General Union of Workers (UGT) in July 1995. The Committee also notes the Government's report, received in August 1995, which refers to the comments made by the UGT and provides information in response to the Committee's previous observation.

1. The Committee notes that the General Union of Workers (UGT) reiterates its previous comments, alleging that the Government still does not hold effective consultations on ILO standards and activities. In particular, the UGT denounces the lack of consultations on the re-examination of unratified Conventions (Article 5, paragraph 1(c) of the Convention) and the difficulties encountered in holding effective consultations on the Government reports due under article 22 of the ILO Constitution (Article 5, paragraph 1(d)). The workers' committees consider that the Economic and Social Council is not an appropriate body to supervise the application of the Convention and that the trade unions have not been consulted on the required procedures. The CC.OO. recalls in particular that Article 2 of the Convention lays down the obligation to ensure effective consultations which, under the terms of Article 5, paragraph 2, shall be undertaken at appropriate intervals fixed by mutual agreement.

2. The Committee notes the Government's statement in its report that it is ready to find any solution that resolves the practical problems of application raised. The Government emphasizes that it has established direct personal contacts in order to ensure that all written communications are received by the competent bodies of all the social and economic organizations. It also refers to a possible change in the system of consultation, provided that this is explicitly accepted by all the parties involved.

3. The Committee recalls that the Convention lays down that the nature and form of the consultation procedures shall be determined in accordance with national practice. Member States are obliged only to ensure that they are "effective", as required by *Article 2, paragraph 1*. With reference to its General Survey, the Committee points out once again that effective consultations are consultations which enable employers' and workers' organizations to have a useful say in matters relating to the activities of the

ILO referred to in the Convention and the Recommendation. In the case under consideration, it observes that the above-mentioned workers' organizations do not consider written communications to be sufficient to give full effect to the provisions of the Convention. In these circumstances, and taking into account the positive attitude of the Government, the Committee considers appropriate to suggest that the parties concerned would study the other possible methods proposed by Recommendation No. 152, though the list of such methods is not exhaustive. In addition, the Committee also recalls that *Article 6* provides for the issue of an annual report on the working of the procedures "when this is considered appropriate after consultation with the representative organizations".

4. The Committee trusts that the Government will supply, in its next detailed report on the application of the Convention, information on the progress achieved with a view to operating appropriate procedures in order to ensure effective consultations to the satisfaction of all the parties concerned, taking into account the observations made, on the one hand, and the national practice, on the other hand.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Barbados, Belgium, Chile, China, Costa Rica, Egypt, France, Gabon, Greece, Guatemala, Guyana, Indonesia, Ireland, Malawi, Mauritius, Mexico, New Zealand, Nicaragua, Philippines, Poland, Portugal, Romania, Spain, Suriname, Swaziland, Syrian Arab Republic, United Republic of Tanzania, Togo, Turkey, Ukraine, Venezuela, Zambia.*

Information supplied by *Bangladesh* in answer to a direct request has been noted by the Committee.

Convention No. 145: Continuity of Employment (Seafarers), 1976

Requests regarding certain points are being addressed directly to the following States: *Costa Rica, Hungary, Italy, Netherlands, Norway, Poland, Portugal.*

Information supplied by *Brazil* in answer to a direct request has been noted by the Committee.

Convention No. 147: Merchant Shipping (Minimum Standards), 1976

Portugal (ratification: 1985)

Article 2(a)(i) of the Convention. (Conventions listed in the appendix to Convention No. 147 but not ratified by Portugal.)

Convention No. 134. Further to its previous comments, the Committee notes the information contained in the Government's report that, compared to the framework law on occupational safety and health (Decree Law No. 441/91 of 14 November 1991) and Decree Law No. 362/93 of 15 October 1993 which are of more general application, the legal texts, because of their more specific application to the maritime sector, will provide for certain aspects of industrial accident prevention specific to the exercise of the seafaring profession. These legal texts (Decree Law No. 11214 of 21 July 1927 providing for Regulations on Iron, Anchors and Cables, Ministerial Decree ("Portaria") No. 450/77 of 21 July 1977 providing for safety inspection of ships loading and unloading gear, and Decree Law No. 397/80 of 16 September 1980 and its Decree Regulations No. 39/81 of 26 August 1980 regarding the production, distribution and use of electricity installations on board ship) should be supplemented by regulations that are in preparation, in order to better meet the requirements of the Convention *(Article 4, paragraph 3(d), (e), (g) and (h))*. At the same time the Directorate-General of Ports, Navigation and Maritime Transport has prepared a manual on safety and training on board ship which defines in detail safety procedures including fire-fighting and prevention procedures and on individual protective equipment, and which contains general safety provisions covering the use of machinery on board ship. The Committee would be grateful if the Government would communicate to the Office copies of the above-mentioned legal texts and the manual on safety and training on board ship.

The Committee notes the information that the appointment, from amongst the crew of a suitable person or suitable persons responsible, under the master, for accident prevention *(Article 7)* will be provided for by regulations that have already been drafted for the implementation of Decree Law No. 441/91. The Committee hopes that the said regulations will be adopted soon and a copy of the adopted text communicated to the Office with the Government's next report.

Article 2(f). The Committee notes the information that concrete measures will be taken to organize the inspection services within the legal framework provided by the new organic law of the Directorate-General of Ports, Navigation and Maritime Transport. It hopes the Government will furnish detailed information as to the functioning of the inspection services, including on results of inspections and investigations of complaints and penalties imposed, as requested in the report form.

Article 2(g). The Committee notes the information that the administrative restructuring that is being put in place will permit satisfactory replies to be given regarding the implementation of this Article. It also notes that the Government's reports on accidents for the years 1990, 1991 and 1992 contain information on the following matters: causes of accidents (dangerous acts, dangerous conditions or fortuitous circumstances); enterprises concerned, names and types of vessels; departments where accidents occurred, number and ranks of crew members who are victims of accidents, fatal cases, types of accidents and injuries by age groups; and information on accidents by the hour, day and month when they occurred. The Committee requests the Government to provide information on official inquiries held into serious marine casualties, on whether the final reports of such inquiries have been made public, and the measures taken as a result.

United Kingdom (ratification: 1980)

The Committee notes the Government's report for the period ending June 1994, containing the Government's reply to the Committee's 1994 observation which had referred to the Trades Union Congress (TUC) comments of 1993. It also notes the comments made by the TUC which were received on 13 February 1995, and the Government's reply received on 15 February 1995. The Committee recalls its 1995 observation in which it indicated that it would examine these questions at this session.

Article 2(a)(ii) of the Convention. Further to its previous comments, the Committee notes with satisfaction from the Government's 1994 report and the February 1995 TUC comments that the Government had announced in 1994 that work in ships' engine-rooms would, from October 1994, be a prescribed occupation for occupational deafness, as was recommended by the Government's Industrial Injuries Advisory Council, and the implementation of which had been demanded by the maritime unions and the TUC for many years.

Article 2(a)(i). Hours of work. Further to its previous comments, the Committee notes the TUC's 1994 observations that the maritime unions and the TUC consider the absence of proper hours of work regulations in the United Kingdom merchant shipping industry (according to the TUC the only transport industry in the United Kingdom without safe controls on hours of work) continues to have serious implications for marine safety. In early 1995, at the time the Government was presenting before Parliament the Statutory Instrument on Hours of Work, the TUC had indicated that neither it nor the maritime unions had seen the text, and that if the regulations closely resembled the draft which had been published by the Department of Transport in late 1993, they would oppose it. It also contests the Government's reply to the Committee's 1994 observation that there was general acceptance of the 1993 draft regulations as the maritime unions had disputed key elements of the draft. While the TUC welcomes the possibility that the regulations may outline minimum rest periods, it considers the 1993 draft regulations to have the following serious shortcomings: the failure to set out strict limits on working periods; general duties will be placed on employers, owners and masters to ensure that seafarers did not work unsafe hours; unsafe hours are not defined; goal-setting approach is unsatisfactory because it did not take adequate account of modern reality of the shipping industry which frequently involves unreasonable and increasing workloads and working hours, resulting mainly from reduced manning, new shift patterns, tighter schedules, multinational manning, and increased commercial pressures. The TUC considers that the goal-setting approach will permit and encourage long and unsafe working hours. The TUC also fears that the regulations will not cover catering ratings, who are the majority of the crew on many passenger vessels. It and the maritime unions consider that all officers and ratings have a safety responsibility and they should be included within the scope of the regulations.

The Committee notes from the Government's reply of 15 February 1995 and the enclosed text of the Merchant Shipping (Hours of Work) Regulations, 1955, that these regulations were adopted following a consultation exercise held in 1993 when written comments were received from 25 organizations, and following the meetings held in 1994 by officials from the Maritime Safety Agency in the Department of Transport, with the Chamber of Shipping, the British Tugowners' Association, the Transport and General Workers' Union, the National Union of Rail, Maritime and Transport Workers (RMT) and the National Union of Marine, Aviation and Shipping Transport Officers (NUMAST). The Government indicates that on 25 January 1995 the Marine Safety Agency informed NUMAST and RMT of the changes to the preceding version resulting from the representations received and of the fact that the revised version would not be circulated for further comments to avoid additional delay in the introduction of the regulations.

The Committee notes from the Government's reply and the text of the regulations that the said regulations entrust owners and masters of individual ships with the responsibility for ensuring that hours worked comply with their assessment of what is safe for a particular shipping operation. It further notes that the working hours and rest periods of masters, seamen whose work includes regular watch-keeping duties or ship handling, and chief engineer, chief officer and second engineer officer on board the vessel are to be laid down in a schedule of duties to be produced and displayed on all vessels. General duties are also placed on all masters and seamen to use their best endeavours to be adequately rested. While the Government acknowledges its obligations under Convention No. 147 to make regulations on hours of work, it indicates that it has made efforts to arrive at a system of regulation that would, on the one hand, seek to improve safety through the avoidance of excessive working hours and fatigue and ensuring provision for adequate periods of rest, and on the other be flexible enough to cater for all classes of shipping operation and not create unworkable requirements.

The Committee welcomes the acceptance by the Government of the need to have regulations laying down hours of work, as required by Article 2(a)(i) of the Convention. It however draws the Government's attention to paragraph 96 of its 1990 General Survey on labour standards on merchant ships, which indicates that the essential requirements of this Article may be satisfied at a minimum by legislation laying down, in light of safety demands, a reasonable level of normal daily hours of work at sea for all officers and ratings, and not limited just to watch-keepers. The Committee none the less indicated its recognition of the need for flexibility in this regard when it stated in the same paragraph that such normal hours may be defined differently for near-trade ships than for distant-trade ships. Furthermore, it also acknowledges that where safety is at issue it would be for national laws or regulations to determine the duties, the time spent on which should be included in normal hours of work, and to regulate other aspects of hours of work than merely setting a daily or weekly norm such as daily rest periods or maximum overtime allowable. The Committee notes however that, except for section 4(5)(c) of the regulations which provides for schedules of duties to comply with the requirement, that there be a minimum uninterrupted period of seven hours off-duty in each 24-hour period or periods of rest, aggregating at least 16 hours off-duty in each 48-hour period, there are no minimum safety standards on hours of work laid down in the said regulations. It remains up to the operators and masters of individual ships to set these standards even if they have to take into account certain considerations and follow specified procedures in doing so. The Committee requests the Government to provide information on how it ensures that questions other than those on minimum rest periods are laid down by laws or regulations or by collective agreements that are given general application by laws (paragraph 97 of its 1990 General Survey).

Article 2(a). (Conventions listed in the Appendix to Convention No. 147 but not ratified by the United Kingdom.)

Convention No. 73, Articles 1(3)(a) and 5(1). Further to its previous comments, the Committee notes from the Government's 1994 report that even though proposals regarding medical examination of seafarers on vessels below 1,600 gross register tons have not yet been put for consultation, consideration will be given to undertaking a consultation exercise as part of an internal Department of Transport review of arrangements for the medical examination and training of seafarers. Such review will also cover the frequency at which seafarers are required to be medically examined. The Committee notes the Government's assurance that it will keep the Committee informed of any developments which may take place, and hopes that the review will shortly permit the Government to take the necessary measures to ensure the implementation of these Articles of the Convention.

Article 2(e). The Committee notes with interest the information provided in the Government's 1994 report replying to its previous comments that recalled the 1993 TUC comments regarding the adequacy of funding for training for seafarers. It draws the Government's attention to paragraphs 203 to 208 of its 1990 General Survey on the Convention and hopes the Government will continue to provide details of the measures it takes to promote the proper training and qualification of seafarers employed on ships registered in its territory.

Article 2(f). The Committee recalls its previous comments referring to the 1993 TUC observations and the 1994 government reply regarding the adequacy of inspection of ships. It also notes the TUC's comments and the Government's reply of February 1995 regarding the need to provide adequate resources for staffing of the UK's complement of full-time professional government inspectors and surveyors, in order to effectively carry out the inspection and control obligations undertaken under the Convention, including port state control inspections. The TUC expresses its opposition to an initial government proposal of 20 per cent cut from the budget of the Maritime Safety Agency (MSA), which it said can only hamper the country's ability to carry out proper and detailed ship inspection. The TUC also objects to the Government's plans to "delegate" to various classification societies certain survey work presently carried out by the independent MSA surveyors. It considered this work to be the function of independent government employees.

The Committee notes from the Government's reply that, contrary to the concerns expressed by the TUC, the MSA was actually planning to increase the number and extent of inspections it carries out on UK and foreign registered ships by better use of its resources and improved targeting, particularly of port state control inspections. It adds that port state control will be strengthened further with the adoption of the European Union Directive which will widen the scope of inspections, but that the United Kingdom will continue to inspect 30 per cent of individual foreign ships entering its ports, which, when combined with those of the other signatories of the Memorandum, ensures inspection of 85 per cent of all foreign ships calling at the ports covered by the Memorandum. With respect to the TUC's comments regarding proposals to delegate certain survey work to various classification societies, the Government states that there is provision in the relevant International Maritime Organization Convention for survey and certification work to be delegated to the private sector. The Government further indicates that its current proposals only extend the scope of existing delegation and will be subject to parliamentary approval, and all proposals to delegate survey work will incorporate safeguards to ensure that safety standards are always maintained.

The Committee welcomes the information that the Government intends to increase the number and extent of inspections it carries out by better use of its resources and improved targeting. It would be grateful if the Government would also indicate its intentions regarding the concerns expressed by the TUC on any possible future budgetary cuts at the MSA. With respect to possible delegation of certain survey work to classification societies, the Committee points out that while Convention No. 147 leaves the organization and functioning of the inspection services to the State's discretion, it is clear that the manner in which the State fulfils its undertaking in Article 2(f) is through action by a competent authority (paragraphs 246 to 256 of its 1990 General Survey). The Committee would be grateful if the Government would provide full particulars on any developments in this regard, taking into account the concerns expressed by the TUC regarding the need for these functions to be carried out by independent government officials, and considering the evident difference in the nature of inspections for standards on working and living conditions of seafarers as opposed to inspections for other technical maritime standards. The Committee would also be grateful if the Government would continue to provide information on the organization, staffing, functioning of the inspection and other arrangements, numbers and results of inspections, including the percentage of home-registered vessels inspected and investigations of complaints, and penalties imposed.

Article 2(g). 1. With respect to the Government's decision not to hold a public inquiry into the 1989 "Marchioness" disaster referred to by the TUC in its 1995 comments and in which 51 people had died, the Committee notes the Government's reply that Article 2(g) of the Convention, while requiring the Government to hold an official inquiry into any serious marine casualty, does not, however, require that the inquiry be a formal investigation within the meaning of the Merchant Shipping Act. The Government adds that a formal investigation was found unnecessary at the time, given the full, thorough and comprehensive inquiry carried out by the Marine Accident Investigation Branch (MAIB) under the then new investigation procedures contained in the Merchant Shipping (Accident Investigation) Regulations, 1989. This continues to be the Government's view today, which considers that a formal investigation would be unlikely to add to the inspector's findings, or to the 27 safety recommendations made in the MAIB report. The Government also indicates that the Hayes report on river safety had made no suggestion that a further inquiry into the accident was needed. The Government recalls that even though the MAIB is part of the Department of Transport, it operates as an independent unit and the Chief Inspector reports directly to the Secretary of State. The Committee points out that, to the extent the vessel in question was not seagoing, the matter is not covered by the Convention.

2. With respect to the cuts in the budget of the MAIB, initially set at 20 per cent in 1994 but eventually reduced to 7 per cent, the Committee notes the TUC's views that such cuts will have an adverse impact on the UK's ability to carry out proper accident and casualty investigations. In its reply the Government maintains that a cut of 7 per cent could be achieved without any impairment when the savings are made through improved efficiency and the loss of only one post, which is not that of an inspector. The Committee hopes the Government will keep it informed of any developments in this regard.

Article 4. The Committee refers to the 1993 TUC comments, the Government's reply of 1994 and the reiteration by the TUC of the same comments in 1995 regarding the Government's decision not to investigate or take action on the seafarers' and trade unions' complaints about the de-recognition of two British seafarers' unions in the case of Geest Line Limited and their resulting inability to take part in free collective bargaining. The Government indicates that there is no evidence that the said de-recognitions have resulted in any kind of complaint to the United Kingdom which could be held to come within the terms of Article 4 of the Convention. It considers that nothing in the provisions of Convention No. 147 or those of any of the ratified appendix Conventions would require the United Kingdom to establish arrangements such that a trade union would be able to force an unwilling employer to bargain (or continue to bargain) with the union about terms and conditions of work of employees. The Government states that this voluntary approach to recognition of trade unions by employers is in line with the views of the Committee on Freedom of Association, which has always accepted that to place a duty on a government to enforce collective bargaining by compulsory means with a given organization is not appropriate and would clearly alter the nature of bargaining. The Committee would be grateful if the Government would provide all particulars of any complaint or information it might have received in this particular case, from a member of the crew of the ship in question, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship or the safety and health hazards to the crew.

[The Government is asked to report in detail in 1996.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Germany, Kyrgyzstan, United States*.

Convention No. 148: Working Environment (Air Pollution, Noise and Vibration), 1977

Brazil (ratification: 1982)

I. The Committee notes the communication from the Trade Union of Workers in the Construction Industry of the State of Sergipe, together with other trade unions from the same State, alleging that the representative of the Ministry of Labour inhibits the work of the labour inspectorate, resulting in a serious occupational accident in the port of Sergipe, caused by defects in the maintenance of machinery on a vessel. The lack of safety in the working conditions in the port is confirmed by the report of the inspection services, in accordance with which: (i) some operators work without personal protective equipment; (ii) port workers are not subject to a medical examination for admission to employment; (iii) certain operators engaged in loading operations do not receive adequate training.

The Committee notes the Government's detailed reply indicating that the competent administrative and judicial authorities are examining the facts in relation to this case, but that they have not yet reached any decision on them.

The Committee also refers to its observation on Convention No. 81. It requests the Government to indicate the measures which have been taken or are envisaged with a view to giving effect to the Convention in ports, and in particular the measures taken in the port of Sergipe to improve the situation, with particular reference to *Article 10* in relation with *Article 7, Article 11, paragraph 1* and *Article 13 of the Convention*.

II. Furthermore, the Committee recalls that its 1995 observation read as follows:

> 1. In its previous observation, the Committee noted the comments made by the Trade Union of Chemical and Petrochemical Industry Workers (SINDIPOLO) on the application of the Convention, which were received by the Office on 1 November 1993, and it requested the Government to supply detailed information in reply to these comments. The Committee notes the detailed reply provided by the Government in two communications received on 21 April and 25 October 1994.
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> In its comments, the Trade Union of Chemical and Petrochemical Industry Workers (SINDIPOLO) reported that in September 1993 the workers' representatives of SINDIPOLO and another trade union (SINDICONSTRUPOLO) had been invited to accompany two agents of the inspection service of the regional labour delegation (DTR) on their visit to the *Copesul S/A-Companhia Petroquímica do Sul* in order to check the occupational safety situation in the enterprise, particularly as regards noise, vibration and air pollution. They were not admitted onto the enterprise's land. They were only able to participate with the inspectors in their inspection visit the next day after the intervention of federal police officers. The SINDIPOLO alleges that such treatment of workers' representatives by the enterprise is in contravention of a series of provisions of the national legislation (section 1(7) of Regulatory Standard 01 of Ministerial Regulation No. 03 of 7 February 1988, Legislative Decree No. 56 of 9 October 1981 and Decree No. 93.413/86) and it constitutes non-observance of *Article 5, paragraph 4, of the Convention*, as well as of Article 3 of the Workers' Representatives Convention, 1971 (No. 135).
>
> **SINDIPOLO states that in a court action brought by *Copesul S/A-Companhia petroquímica do sul* against the regional labour delegate, the right to accompany the inspection officers of the DTR was not recognized for workers' representatives, who were considered to be alien persons, and section 1(7) of Regulatory Standard 01 of Regulation No. 03 of 7 February 1988 was considered to be a very doubtful provision. Finally, the judge's ruling abolished the supervisory mandate over occupational safety in respect of *Copesul S/A-Companhia petroquímica do sul* and restricted the access of inspectors to its territory.**

SINDIPOLO also states that similar judicial rulings had been handed down previously in similar cases.

In reply, the Government states that the facts described by SINDIPOLO are known to the Ministry, which adopts a similar position in this respect. As indicated by SINDIPOLO, workers' representatives had the right to accompany officers of the inspection service to control the observance of laws and regulations respecting occupational safety and medicine. However, judicial decisions which find against this right are binding on all parties (government, employers and workers) and will need to be appealed in due time, as was done. In order to find a solution to future situations and give statutory recognition to the important practice of inspection visits being accompanied by representatives of the enterprise as well as by the representative trade union of the workers at the workplace, a directive has been prepared and transmitted to all the members of the National Labour Council, who are to examine it within 90 days with a view to its publication in the *Official Journal*.

The Committee hopes that the above directive will make it possible to ensure that effect is given to Article 5, paragraph 4, of the Convention. It requests the Government to supply a copy of the directive when it has been adopted, as well as any information on the application in practice of the right of workers' representatives to accompany inspectors when they supervise the application of the measures prescribed in pursuance of this Convention.

2. With regard to a number of other provisions of the Convention, the Committee refers to the comments that it made in the form of a request addressed directly to the Government in 1994.

Costa Rica (ratification: 1981)

1. The Committee refers to the observations made by the Association of Customs Officers (ASEPA), alleging that Executive Decree No. 23116-MP, published in Gazette No. 76, of 21 April 1994, is not in conformity with the Convention and notifying of the appeal against this Executive Decree, which was dismissed on its merits. The Committee notes the Government's comments to the effect that the Executive Decree was the result of a technical study carried out by the Civil Service General Directorate.

The Committee notes that Executive Decree No. 23116-MP contains the descriptions and characteristics of classes of posts in the customs administration without any direct relationship with the application of the Convention. Nevertheless, these descriptions indicate that certain posts such as customs handlers and customs operations technicians I and II may be exposed to dust, humidity, noise and toxic gasses in the workplace. The Committee requests the Government to provide information on the measures adopted to prevent and limit occupational hazards due to air pollution and noise and to protect workers in the classes indicated against such hazards.

2. With reference to its observation made in 1994, the Committee expresses the hope that in the near future the necessary measures will be taken to guarantee application of the following Articles:

Article 8, paragraphs 1 and 3, of the Convention. Air pollution. The Committee notes with interest Decree No. 21406-S of 22 June 1992 regulating the registration and control of toxic substances and products and dangerous substances, products and objects. It further notes that section 12 of Decree No. 21406-S sets forth a classification list and definition of dangerous and toxic substances, while section 8 empowers the Minister of Labour to cancel or refuse registration for the use of such substances when the product is considered to be highly dangerous to human beings or domestic animals. The Government has also indicated, in its report, that the criteria defined by international organizations with respect to air pollution are followed in the country. The Government is requested to indicate, in its next report, the specific international criteria with respect to air pollution to which it refers and the exposure limits, if any, specified on the basis of these criteria. The Government is also requested to indicate the manner in which these criteria, and any exposure limits, are periodically reviewed, in the light of current national and international knowledge and data.

Vibration. The Committee notes that Decree No. 10541-TSS of 14 September 1979 regulating the control of noise and vibration only sets forth general provisions concerning the reduction of vibration. The Government is requested to indicate, in its next report, the measures taken to establish criteria for determining the hazards of exposure to vibration in the working environment and any exposure limits specified on the basis of these criteria.

Article 9. In comments it has been making since 1985, the Committee has requested the Government to indicate the steps taken to prescribe technical measures or supplementary organizational measures, for the protection of workers against the hazards due to air pollution. The Government is requested to indicate, in its next report, the steps taken or envisaged to ensure the application of this Article of the Convention in respect of air pollution.

Article 11, paragraphs 1 and 2. In previous comments, the Committee requested the Government to indicate the steps taken to ensure that pre-assignment and periodical medical examinations are provided to workers at no cost to them. The Government has indicated that, at present, no obligation rests upon the employer to submit employment applicants to medical examinations, although some employers do provide for such examinations prior to and during the course of employment. In regard to periodical examinations, the Government has indicated that the health of workers is supervised when the competent authority considers it necessary (for example, when exposure limits have been exceeded; minimum safety standards have not been met; technical control measures are not the most adequate). The Committee would recall that, under this Article of the Convention, occupational health care must include pre-assignment and periodical medical examinations for workers who are exposed or liable to be exposed to occupational hazards due to air pollution, noise or vibration in the workplace and that these examinations must entail no cost to the worker concerned. The Government is requested to indicate in its next report the measures taken or envisaged to ensure that workers exposed to these hazards are provided with pre-assignment and periodical medical examinations, in accordance with the provisions of the Convention.

Article 12. In its previous comments, the Committee requested the Government to indicate the processes, substances, machinery and equipment, to be specified by the competent authority, which expose workers to occupational hazards, the use of which must be notified to the competent authority for authorization to be granted under prescribed conditions or for prohibition. The Government indicated in its report for the period ending June 1985, that a list of dangerous substances was being prepared as part of the National Occupational Safety Plan (1985-90). In its latest report, the Government has indicated that, due to insufficient staffing, the Occupational Health Council has had to postpone the preparation of a list of dangerous substances. The Government is requested to indicate, in its next report, the progress made in establishing a list of processes, substances, machinery and equipment, involving the exposure of workers to occupational hazards due to air pollution, noise or vibration, the use of which is to be notified to the competent authority for control or prohibition.

Ecuador (ratification: 1978)

1. The Committee notes the comments submitted by the Latin American Central of Workers (CLAT) and the Government's reply.

According to the comments of the above-mentioned organization, the provisions of the Agreement of the Ministry of Labour and Human Resources No. 843 of 31 December 1990 do not comply with the provisions of *Article 4 of the Convention* and violate the terms of the resolution of the Constitutional Guarantees Tribunal published in the Official Register No. 118 of 29 January 1993. The aforementioned Agreement provides an extension of the working day for operators and supervisors of the national telephone service which can result in a serious reduction in hearing, loss of sight and irreversible damage to the central nervous system due to permanent exposure to noise and harmful gas emissions.

The Committee notes the resolution of the Constitutional Guarantees Tribunal on the appeal for unconstitutionality of Ministerial Agreement No. 843 brought by the National Union of Telephone Operators, Observation and Inspection of the Ecuadorian Telecommunications Institute "17 May" according to which the effects of section 1, part 14 of the Agreement were totally suspended.

In its comments, the Government indicates that it has proceeded to rectify the provisions of the instruments concerning the working day of telephone operators, including Agreement No. 843. The Committee notes section 3 of the Agreement of the Ministry of Labour and Human Resources No. 709 of 31 December 1993 which fixes the ordinary working day of telephone operators and supervisors at four and a half hours. Furthermore, under section 5 of this Agreement, a working day established previously with fewer hours than laid down in section 3 must be maintained without any modification.

The Committee requests the Government to supply information on the application of the measures set out in Ministerial Agreement No. 709 indicating whether they guarantee protection of telephone operators and supervisors against occupational hazards due to noise and air pollution.

2. With respect to various other provisions of this Convention, the Committee refers to the comments it made in a direct request sent to the Government in 1994.

Spain (ratification: 1980)

1. With reference to *Article 8, paragraph 1, of the Convention*, the Committee notes the Government's comments in reply to the observations made by the General Union of Workers (UGT) concerning section 4(2) of Royal Decree No. 1316/1989. The Government states that the Royal Decree establishes obligations for the employer which are not merely dependent on the will of the employer. Compliance with these obligations is ensured by administrative supervision, combined with the activities of the National Occupational Safety and Health Institute, and of workers' representatives in the field of occupational safety and health.

The Committee once again draws the Government's attention to paragraph 7(1) of the ILO *Code of practice on protection of workers against noise and vibration in the working environment*, which provides that the level of noise and/or vibration in the working environment should be measured whenever: (a) the work undertaken or the workplace is likely to carry a risk of noise; (b) the monitoring of the workplace or of the workers' health, or inspection visits demonstrate that the risk might exist, or; (c) the workers feel that they are exposed to levels of noise and/or vibration which bother them or their work. The Government is requested to indicate the measures which have been taken to ensure that the decision to measure the levels of exposure to noise at the workplace are not only the responsibility of the employer, but can also be invoked for the reasons given above, and to indicate in particular whether workers can request that measurements be made of the noise levels in the working environment when they consider that such levels are bothersome to themselves or their work.

The Committee requests the Government to provide information on the number and nature of offences reported under the second additional provision of the Royal Decree. It also requests the Government to provide copies of extracts of the research published by the National Occupational Safety and Health Institute, if such research has been undertaken, concerning criteria relating to the effects of noise on the health of workers.

2. The Committee recalls that it raised a number of matters in its previous observation concerning the following points:

Article 1, paragraph 1. The Committee notes from the comments made by the UGT that Royal Decree No. 1316 of 27 October 1989 respecting the protection of workers against risks due to occupational exposure to noise does not apply to civil servants or self-employed workers. The Committee understands, however, that by virtue of section 1, the Decree applies to all workers irrespective of the type of contract, with the exception of aviation and maritime crews. Since, by virtue of Article 1, paragraph 1, the Convention applies to all branches of economic activity, the Government is requested to indicate whether civil servants are in practice covered by the above Decree and, if not, to indicate the measures that have been taken to ensure the protection of these workers against the effects of exposure to noise which are harmful to their health. The Government is also requested to indicate the measures which have been taken or are envisaged to provide the protection afforded by the Convention to aviation and maritime crews.

Article 8, paragraph 1. In its previous observations, the Committee noted the observations made by the Trade Union Federation of Workers' Commissions (CC.OO) to the effect that the protection of workers against hazards due to noise is not designed to protect workers against hazards other than those directly affecting their hearing. The Committee draws the Government's attention to Appendix 2 of the above *Code of practice*, in which it is indicated that the effects of noise on hearing can be of a physiological, mental or pathological nature and that these effects can affect hearing and other organs of perception, and that they can also be of a general nature. In its comments, the UGT also states that Decree No. 1316 of 1989 does not take into account the other effects which might result from exposure to noise. In its latest report, the Government states that Royal Decree No. 1316 was designed taking into account all the effects of exposure to noise and states that section 1 of the Decree refers to risks due to exposure to noise, and particularly its effects on hearing. The Committee also notes that section 2(1) of the Decree provides that the level of noise at the workplace should be lowered to the lowest level technically possible. It requests the Government to continue supplying information on any measure that is taken at the enterprise level, either at the initiative of the employer, or at the request of the labour inspectorate, to reduce levels of noise on the grounds of their harmful effects other than on hearing.

Article 14. In its previous comments, the Committee noted the information provided by the CC.OO that the budget for the National Occupational Safety and Health Institute had been reduced by one-third, and that the number of staff of the Institute had been reduced by one-quarter. It notes that, according to the indications provided by the Government in its latest report, this reduction has not been prejudicial to the effectiveness of the Institute in view of the fact that, on the contrary, other factors related to the management of resources made possible a considerable improvement in the effectiveness of preventive action without increasing staff numbers. The Government adds that the financial and technical resources have not in fact been reduced, but that they have been dispersed in the context of a process of decentralization. It also refers to a reform that would result in new responsibilities and a more appropriate organization of the Institute so that it can achieve its inspection objectives more effectively in the fields of the prevention and control of occupational risks. In this respect, the Government is requested to keep the Office informed of the measures adopted to restructure the Institute, as well as any other measure taken to improve the inspection system in the country.

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In addition, requests regarding certain points are being addressed directly to the following States: *Croatia, Ghana, Guinea, Italy.*

Convention No. 149: Nursing Personnel, 1977

Requests regarding certain points are being addressed directly to the following States: *Congo, Ghana, Malta.*

Convention No. 150: Labour Administration, 1978

A request regarding certain points is being addressed directly to *Zaire.*

Convention No. 151: Labour Relations (Public Service), 1978

Information supplied by *Belgium* in answer to a direct request has been noted by the Committee.

Convention No. 152: Occupational Safety and Health (Dock Work), 1979

Requests regarding certain points are being addressed directly to the following States: *France, Iraq.*

Convention No. 153: Hours of Work and Rest Periods (Road Transport), 1979

Uruguay (ratification: 1989)

The Committee notes the Government's reports, which were received in September and November 1995 for the period between July 1990 and August 1995. In September 1995, the Inter-Union Assembly of Workers-National Convention of Workers (PIT-CNT) transmitted to the Office observations made by the National Union of Transport Employees and Manual Workers (UNDTT) concerning important aspects of the application of the Convention. According to normal practice, the communication from the organization of workers was transmitted to the Government so that it could consider whether to make its own comments on the matter. The Committee decided to defer the examination to its next session and trusts that the Government will provide it with its own comments on the observations made by the trade union organization.

Convention No. 154: Collective Bargaining, 1981

Requests regarding certain points are being addressed directly to the following States: *Brazil, Gabon, Uganda*.

Information supplied by *Romania* in answer to a direct request has been noted by the Committee.

Convention No. 155: Occupational Safety and Health, 1981

Brazil (ratification: 1992)

The Committee notes the communication sent by the Colony of Employed and Artisanal Fishermen of Angra dos Reis, as well as the Government's reply to the above communication. The Committee also notes the communication sent by the Colony of Employed and Artisanal Fishermen of Angra dos Reis, dated 30 July 1995, in which it denounces employment accidents with fatal victims. In the absence of a reply by the Government to this latter communication, the Committee requests the Government to indicate any measure that has been adopted to ensure the application of the Convention to the fishing vessels in question.

The Committee refers to other matters in a request addressed to the Government.

[The Government is asked to report in detail in 1996.]

Croatia (ratification: 1991)

The Committee has taken note of the communication sent by the Union of Autonomous Trade Unions of Croatia (UATUC), concerning section 59 of the Health Insurance Act which provides that the right to health protection funded by the Institute for Health Insurance of those who contribute but fail to pay their contribution shall be reduced to emergency medical aid only. The UATUC concludes in its communication that the above-mentioned category of workers are being unjustly denied all the forms of health protection, except for emergency medical aid. The UATUC has instituted a procedure with the constitutional court of the Republic of Croatia with a view to annulling the provision in question.

In the absence of a reply by the Government, the Committee requests the Government to supply information on any measures taken to apply the Convention to all workers in the branches of economic activity covered, in accordance with *Article 2, paragraph 1, of the Convention*.

[The Government is asked to report in detail in 1997.]

Mexico (ratification: 1984)

The Committee notes the observations made by the Latin American Central of Workers (CLAT) and the Government's reply.

In its communication, the CLAT reported cases of mass contamination of workers, sometimes with loss of consciousness, caused by emissions of poisonous gases, derived from ammonia and from hydrochloric acid, hydrofluoric acid, and leaks of toxic gases, ethyl alcohol and ammonia; cases of complications to workers' health, cardiac arrest, cancer, tumours, caused by incorrect handling of toxic products; cases of poisoning and failure to comply with occupational health standards which placed in serious danger of death and illness the workers and inhabitants of the border zone of Matamoros; and the death of a young chemical engineer caused by poisoning. It observed in some of these cases that the managers of the firms involved had refused immediately after the accidents to allow teams specialized in gas escape problems to enter the affected site. The CLAT alleges the lack of effective measures — of preventive and palliative type — taken by the local international authorities and the directors of the assembly plants in this zone.

The Committee notes the Government's comments that in the framework of the national policy for occupational safety and health and the working environment in the subcontracting sector, greater vigilance and control of industrial activities has been exercised in regard to inspection. These firms have been obliged to declare to the competent authority that hazardous elements have been duly analysed, treated and checked. Inspection visits checked that the firms must ensure the proper functioning of the machinery and equipment registered, the proper monitoring by employers of the harmful agents existing in the working environment, and the proper functioning of the methods applicable. Annual regional inspection programmes have been carried out covering the various aspects of safety and health in assembly plants.

The Committee notes that in the framework of these regional programmes, approximately 20 per cent of all the subcontracting firms which handle dangerous substances involving a high degree of risk and a large number of workers were selected in 1993 for inspection. The Committee notes from the results of these programmes the existence of many cases of direct violations of safety standards in the firms of this group which were sanctioned through administrative procedures.

The Committee hopes that the measures taken through an appropriate and adequate inspection system will make it possible to prevent accidents and reduce to a minimum, as far as is reasonably practicable, the causes of hazards inherent in the environment of subcontracting firms, which must be the target of the national policy for occupational safety and health in the working environment, in accordance with *Article 4(2) of the Convention*. In particular, the Committee requests the Government to supply information on any progress made with a view to ensuring the application of the Convention in the subcontracting firms in the Matamoros area.

The Committee invites the Government to take into consideration Recommendation No. 164 on occupational safety and health, particularly paragraph 3(d), (h), (k) and (m) (measures in application of the policy referred to in Article 4 of the Convention in the fields of use, maintenance and inspection of machinery and equipment liable to present hazards; use of dangerous substances and agents and, as appropriate, their replacement by other substances or agents which are not dangerous or which are less dangerous; control of the atmosphere and other ambient factors of workplaces; prevention of fires and explosions), paragraph 10(a) and (c) (obligations placed upon employers to provide and maintain workplaces, machinery and equipment, and use work methods which are safe and without risk to health, as far as is reasonably practicable, and to provide adequate supervision of work), paragraph 12(2)(a) and (c) (workers' safety delegates, workers' safety and health committees, and, as appropriate, other workers' representatives should be given adequate information on safety and health matters, and enabled to examine factors affecting workers' safety and health), and paragraph 15 (obligation on employers to verify regularly the implementation of applicable standards on occupational safety and health, to keep records relevant to occupational safety and health and the working environment as are considered necessary by the competent authority).

The Committee notes the CLAT's indication that there have been many cases of anencephalic, malformations and mental backwardness, births of children with physical defects born to mothers who had handled toxic substances or been exposed to the action of toxic chemical products during pregnancy.

The Committee notes that for the case of anencephalia, a system of epidemiological monitoring for anencephalia was set up for neighbouring towns and since then the system has been extended to the whole country, and includes two other types of malformation. On the basis of some scientific research on the reasons for anencephalia, the Government has observed that the etiology of this disease is multifactorial and that it is difficult to identify the real risk factor which provokes the event, which occurs during the first four weeks of gestation. Since the firms mentioned by the CLAT in cases of anencephalia and malformation of infants do not produce plastics, exposure to which may cause irritation to the skin and the upper respiratory system, no relationship has been determined between anencephalia or malformation in children and exposure to toxic substances. The Committee requests the Government to continue supplying information of any progress made in this matter.

[The Government is asked to report in detail in 1997.]

Spain (ratification: 1985)

1. The Committee notes the comments made by the Workers' Labour Union (USO), regional union of Gijón concerning the hazard which may affect female workers and their families, from a contract firm in the cleaning service of the General Hospital of Asturias since they are obliged to wash their work clothes at home, in contrast to national health institute staff whose clothes are laundered at the workplace. The trade union organization indicates that the hygiene measures required by the Community Standard regarding all staff of the regional hospital centre are not applied to cleaning workers. It expresses its disagreement with the report issued by the Provincial Technical Office of Asturias which states that the hygiene working conditions of the staff who clean the rooms and other premises in the General Hospital of Asturias are satisfactory, and that the workers receive a gown, masks and disposable gloves as working clothes. The report concludes also that the risk of contagion from certain diseases carried on working clothes is remote.

The Committee notes that the Government refers to section 138 of the General Ordinance on Safety and Hygiene at Work which does not allow working clothes for workers exposed to toxic, irritant or infectious substances to be taken away from the factory. It also refers to the opinion of the Service for Preventive Medicine of the General Hospital which considers it unnecessary for work clothes of cleaning staff to be dealt with at the hospital laundry and states that they can be washed at laundries of any type or at domestic level. At the same time, the Government considers it appropriate to request that in the event of obvious contamination of cleaning staff's work clothes, they should be immediately decontaminated or destroyed.

The Committee recalls that, in accordance with *Article 2, paragraph 1 of the Convention*, this international instrument applies to all workers in the branches of economic activity covered and that, under *Article 4, paragraph 2*, the aim of the coherent national policy on occupational health and safety shall be to prevent accidents and injury to health arising out of work. The Committee hopes that effective measures will be adopted for the purpose of preventing contamination of the cleaning staff and requests the Government to supply information on any progress made in this matter.

2. With reference to the previous observation, the Committee notes the adoption of Act No. 31/1995 of 8 November on Prevention of Occupational Risks. The Committee will examine this text at a coming session.

3. The Committee has raised other points in a direct request sent to the Government in 1994.

Venezuela (ratification: 1984)

The Committee notes the information provided by the Government.

1. *Article 4, paragraph 1, of the Convention.* With reference to its previous comments, the Committee notes that the National Council on Prevention, Health and Safety at Work is responsible, in consultation with the most representative organizations of employers and workers, for the formulation of the outline and programmes of a national policy on occupational safety, health and the welfare of workers at the workplace. The Committee once again hopes that the Government will endeavour not to delay the adoption of measures for the preparation of the documents required as integral components of the coherent national policy on occupational safety, occupational health and the working environment.

The Committee refers to the Government's earlier communication, according to which it has been endeavouring for a long time to consolidate social security laws to guarantee the application of the Basic Act on prevention, working conditions and the working environment, of 1986. The Committee has received no information on the outcome of this work and once again hopes that the Government will report the progress achieved in the formulation of the draft text designed to reinforce the application of the Basic Act.

2. In its previous comments, the Committee requested the Government to indicate the manner in which relationships are established between the material elements of work and the persons who carry out or supervise the work, on the one hand, and the adaptation of machinery, equipment, working time, the organization of work and work processes to the physical and mental capacities of the workers, on the other hand *(Article 5(b))*, as well as the measures adopted to facilitate communication and cooperation at all levels *(Article 5(d))*.

In reply, the Government emphasizes the tripartite aspect of the application and establishment of occupational health policies, as set out in the national legislation and confirmed in practice. The Committee notes this statement by the Government and again requests it to provide detailed information on the manner in which account is taken, in the framework of the national policy on occupational safety and health, of the above elements (relationships between the material elements of work and the persons who carry it out; adaptation of machinery and the organization of work to the capacities of workers; the measures adopted to promote cooperation at the levels of the working group, the enterprise and all other appropriate levels).

3. *Article 8.* In reply to the Committee's previous comments concerning the measures adopted by means of laws and regulations or any other method, to give effect to the national policy on occupational safety and health, the Government provides information on the composition of the National Council for Prevention, Health and Safety at Work. The members of this body are under oath, according to the information provided by the Government. The Council is composed of representatives of the ministries (Health, Labour, Natural Resources, Urban Development, Agriculture, Mines, etc.), the organizations of workers and employers and the public and private bodies concerned. The Committee hopes that new standards, the need for which underlies the

terms of this provision of the Convention, will be adopted in the near future and requests the Government to supply information on any progress achieved in this respect.

4. *Article 11.* In its previous comments, the Committee requested the Government to indicate the measures which have been adopted or are envisaged to ensure that the functions enumerated in this Article of the Convention are carried out. In its reply, the Government refers to the provisions of the national legislation, which establish safety requirements with regard to certain machinery, equipment and installations. The Committee requests the Government to indicate the measures which have been taken by the competent authorities to ensure the discharge of functions such as the determination of conditions governing the design, construction and lay-out of enterprises and major alterations affecting them *(point (a))*; the determination of work processes which are prohibited, limited or made subject to authorization or control by the competent authorities *(point (b))*; the establishment and application of procedures for the notification of occupational accidents and diseases by employers *(point (c))*; the holding of inquiries in each case where an occupational accident, occupational disease or any other injury to health arises in the course of or in connection with work *(point (d))*; and the publication annually of information on measures taken in pursuance of the policy on occupational safety, occupational health and the working environment *(point (e))*.

5. The Committee notes the comment of the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS), transmitted with the Government's last report, which refers to paragraph 90(e)(1) of the report approved by the Governing Body at its 256th Session (May 1993) concerning the representation alleging non-compliance with a number of Conventions, made by the International Organization of Employers and FEDECAMARAS. The Committee accordingly requests the Government to indicate whether the report on the application of Convention No. 155 was prepared on the basis of the consultations prescribed by Convention No. 144.

6. The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to report in detail in 1997.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Brazil, Croatia, Slovenia, Spain, Venezuela.*

Information supplied by *Norway* in answer to a direct request has been noted by the Committee.

Convention No. 156: Workers with Family Responsibilities, 1981

A request regarding certain points is being addressed directly to *Yemen*.

Convention No. 158: Termination of Employment, 1982

Spain (ratification: 1985)

The Committee notes the comprehensive and detailed information provided by the Government in reply to its earlier comments, which shows the importance that the Government attaches to the continuation of a well-founded dialogue with the supervisory bodies concerning the application of the Convention. It also notes the Government's reply to the observations made in January 1995 by the Trade Union Federation of

Workers' Commissions (CC.OO.) jointly with the General Union of Workers (UGT) in connection with the procedure initiated before the Ombudsman ("Defensor del Pueblo") alleging that certain provisions of Act No. 11/94 on the reform of the Workers' Charter do not comply with the National Constitution. The Committee further notes the new observations made by CC.OO. and the UGT in May and July 1995 respectively, which contain allegations concerning the non-compliance of the national legislation (the new texts of the Workers' Charter and the Labour Procedure Act) with certain provisions of the Convention, as well as the Government's reply to the observations by the CC.OO. It asks the Government to refer, in its next report, to the latest observations of the UGT, transmitted to the Government in August 1995, and to make such comments as might be judged appropriate, in order to enable the Committee to examine them in substance at its next session.

Article 2, paragraphs 2 and 3. Both the CC.OO. and the UGT in their latest observations reiterated their concern about the vast increase in the number of temporary contracts of employment in the country, which represent approximately one-third of total employment, and about the lack of guarantees of stability in employment for temporary workers. With reference to the statement made by the Government's representative at the Conference Committee in June 1994, the Government describes in its reply various possibilities of control exercised by the workers' representatives under provisions of section 15(4) of the Workers' Charter and Act No. 2/1991 and the activities of the labour inspection in this area. It also refers to provisions of Act No. 22/1992 which encourages by means of subsidies the conversion of temporary contracts into contracts of unlimited duration. The Government considers the national legislative framework and information system to be sufficiently developed in order to prevent misuse of temporary contracts.

The employment policy issues of this matter are dealt with by the Committee in its comments under Convention No. 122. The Committee refers in this connection to its observation of 1995, in which it noted the Government's commitment to promoting employment through contracts without limit of time, even though the measures implemented for this purpose do not appear on their own to have prevented the continuation of the worrying rise in unemployment and the decline in employment security.

As regards this Convention, the Committee expresses the hope, with reference to paragraph 56 of its General Survey "Protection against Unjustified Dismissal" (ILC, 85th Session, 1995), that the Government will continue to develop a tripartite dialogue and encourage the participation by the social partners in the follow-up of employment contracting with a view to provide and implement adequate safeguards against recourse to temporary contracts of employment, the aim of which is to avoid the protection resulting from the Convention. It would be grateful if the Government would supply, in its next report, information on the impact produced on this matter by Acts Nos. 2/1991 and 22/1992. Please continue to provide information on the judicial decisions concerning the protection of workers who hold temporary contracts of employment, as well as on the intervention of the labour inspection in matters involving fraud and abuses in fixed-term contracting.

Article 7. With reference to its earlier comments, the Committee notes the detailed description of the procedures concerning disciplinary dismissals and appeal against such dismissals under sections 55 and 56 of the Workers' Charter, as amended, and sections 103 to 113 of the Labour Procedure Act, as amended, given in the Government's report. The Government places special emphasis on the conciliation procedures provided for in section 63 of the Labour Procedure Act, as well as on the provision of section 55, paragraph 1, of the Workers' Charter, concerning the possibility of establishment of other formal requirements for dismissal, besides those expressly provided for in this section, by way of collective agreements. The Committee would be grateful if the Government would describe in more detail such additional formal requirements included in the collective agreements referred to in the report and supply the relevant texts.

The Government is of the opinion that, contrary to the views expressed by the CC.OO. and the UGT, which have been confirmed in their latest observations made under this Article, the procedures referred to above provide sufficient possibilities to a worker to defend himself against unjustified dismissal, given that, in the legal doctrine and jurisprudence, the dismissal is not considered to be final when the worker has received a notice of dismissal.

While noting this information, the Committee refers to paragraphs 148 and 150 of its General Survey "Protection against Unjustified Dismissal", which state as follows: "Over and above the terms of Article 7 and its meaning, which is to allow workers to be heard by the employer, the purpose of this Article is to ensure that any decision to terminate employment is preceded by dialogue and reflection between the parties" (paragraph 148), and "even if the worker is entitled to procedures after the termination of employment, and even if the termination is not considered as final until the appeals procedures are exhausted, it is necessary for the application of Article 7 that the worker be given an opportunity to defend himself before his employment is considered to have been terminated" (paragraph 150, which contains a reference in the footnote to an observation concerning Spain).

The Committee observes that the above-mentioned provisions of the national legislation are not in complete conformity with this provision of the Convention, inasmuch as the safeguard provided by this Article must be available irrespective of the referral of the matter to the conciliator or to the competent court. With reference to the comments it has been making on the same subject over a number of years and to the conclusions of the Conference Committee of 1994 referred to in its previous observation, the Committee expresses firm hope that the Government will take appropriate measures to ensure in the near future full compliance of the national legislation and practice with the Convention on this point. It asks the Government to provide, in its next report, information on any progress made in this regard.

Point V of the report form. The Committee would be grateful if the Government would supply, in its next report, statistical information concerning termination of employment, which has been indicated as enclosed with the Government's report, but has never been received in the ILO. Please continue to provide information on any other issues relating to the application of the Convention in practice, such as for example statistics on the activities of the bodies of appeal and on the number of terminations for economic or similar reasons.

[The Government is asked to report in detail in 1996.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Ethiopia, Finland, Malawi, Niger, Slovenia, Uganda, Venezuela, Zaire, Zambia.*

Information supplied by *France* in answer to a direct request has been noted by the Committee.

Convention No. 159: Vocational Rehabilitation and Employment (Disabled Persons), 1983

Requests regarding certain points are being addressed directly to the following States: *Argentina, Azerbaijan, Burkina Faso, Costa Rica, Czech Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Iceland, Kyrgyzstan, Malawi, Paraguay, Philippines, Slovakia, Slovenia, Zambia.*

Convention No. 160: Labour Statistics, 1985

Sri Lanka (ratification: 1993)

The Committee notes the observations presented by the Ceylon Workers' Congress on application of the Convention which have been transmitted to the Government. It will examine these observations and any comments from the Government with the first report, which has not yet been received.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Belarus, Bolivia, Brazil, Colombia, Germany, Greece, India, Netherlands, Poland, San Marino, Ukraine, United States.*

Convention No. 161: Occupational Health Services, 1985

Sweden (ratification: 1986)

The Committee notes the information provided in the Government's latest report. It notes new efforts undertaken with a view to promote occupational health services for all workers. It also notes the comments made by the Swedish Trade Union Confederation (LO) and the Swedish Employers' Confederation (SAF).

Article 2 of the Convention. Referring to its previous comments, the Committee notes the amendments to the national legislation and changes made in the funding system for occupational health care aimed at encouraging preventive activities under work environment policy. As to the Government's control of occupational health care, the National Audit Bureau concluded that the steering effects of the state grant were weak, for example, in increasing the affiliation of small undertakings, and the Government consequently abolished the general grant for occupational health services as from January 1993. In the meantime, a special investigator was appointed to study the organization and funding of occupational health services, and recommended the abolition of public control on occupational health services. This recommendation was based on the support expressed by the labour market parties of collective agreements for a flexible and efficient adjustment of resources for work relating to the occupational environment and rehabilitation. The special investigator proposed that provisions for occupational health services be added to the Work Environment Act. Most of the authorities and organizations upon examination of the investigator's report took the view that the question of occupational health services should be settled through collective bargaining. Agreements concerning occupational health care have been concluded in certain negotiating sectors. The Government intends to wait for the results of negotiations before deciding whether or not to introduce legislative amendments on the subject. In the Spring of 1993 a pilot study was undertaken by the National Board of Occupational Safety and Health in preparation of an ordinance relating to occupational health services.

The Committee also notes that the LO points out in its comments that since the cancellation in July 1992 of the Work Environment Agreement between the LO and the SAF that had governed the conditions applying to occupational health services in the private employment sector, such services have not been regulated by any collective agreements and that negotiations concerning a new agreement have been going on for more than two years.

The Committee further notes the comments by the SAF indicating that a significant number of agreements at the national federation level have been concluded and discussions are still in progress with several other federations. The main issue is the benefit that companies and employees derive from occupational health services. In conclusion, the SAF considers that, given the rules contained in the national legislation in the great majority of cases the employer cannot meet its responsibilities for the work environment and rehabilitation without assistance from occupational health services, and that no further legislation is needed for the implementation of the Convention.

The Committee hopes that the efforts undertaken by the Government in order to review the national policy on occupational health services will lead to a solution in the near future, in the light of national conditions and practice and in consultation with the most representative organizations of employers and workers. It requests the Government to indicate progress achieved in this respect.

Article 3, paragraph 1. In its previous comments, the Committee requested the Government to provide information on the measures taken or contemplated to promote occupational health services for all workers and to indicate the progress made in this regard.

The Government indicates that a new agreement on occupational health services, effective as of 1 July 1992, had been concluded by the National Agency for Government Employers (SAV) and the union organizations for the national government sector; that in a special agreement for the local government sector, concluded in May 1993, the parties referred to occupational health services as a possible resource within the work environment and rehabilitation sphere; and that a number of agreements have been concluded in the private sector. According to the Government, the special provision concerning the Occupational Health Services Delegation in the Standing Instructions of the National Board of Occupational Safety and Health was contained by more generally-worded rules to the effect that the Board and the Labour Inspectorate are to observe and encourage the development of occupational health services. The Committee asks the Government to provide copy of the said text. The Committee also notes that a study undertaken jointly by the OHS sectoral organization and the labour market parties referred to by the LO in its comments pointed to the trend of a significant diminution in the staff of occupational health services and in the number of units.

The SAF indicates that the reasons for this reduction of occupational health services were the previous glut of these services, the decline in the number of employees in the country, the growth of corporate expenditure on these services and the threat posed to the status of medical care by the reforms introduced in primary care. In the opinion of the SAF, too much attention has ben focused on the coverage rate of occupational health services solely in terms of the number of persons covered. The evaluation of the actual utilization of occupational health services by companies showed that, even among companies affiliated to these services, barely half regarded them as a major corporate resource; for this reason, the SAF thinks it important to distinguish between formal coverage and the value of occupational health services inputs.

The Committee hopes that the Government will continue to make efforts to develop progressively occupational health services for all workers. The Government is requested to provide information on the measures taken or envisaged in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Croatia, Slovakia, Slovenia, Sweden.*

Convention No. 162: Asbestos, 1986

Requests regarding certain points are being addressed directly to the following States: *Cameroon, Guatemala.*

Convention No. 163: Seafarers' Welfare, 1987

Requests regarding certain points are being addressed directly to the following States: *Hungary, Spain.*

Convention No. 164: Health Protection and Medical Care (Seafarers), 1987

A request regarding certain points is being addressed directly to *Sweden.*

Information supplied by *Spain* in answer to a direct request has been noted by the Committee.

Convention No. 167: Safety and Health in Construction, 1988

Sweden (ratification: 1991)

The Committee has taken note of the information provided by the Government in its report.

The Committee has also taken note of the comments formulated by the Swedish Trade Union Confederation (LO) relating to certain points in the Government's report and in particular to the information provided under *Article 30 of the Convention.* The Confederation considers that the inspection of personal protective equipment has also to rely on market control and that the extent to which a high standard of safety can be maintained depends on the resources allotted for this purpose to the authorities responsible. The Committee asks the Government to supply information on practical application of the provisions giving effect to this Article of the Convention.

Convention No. 168: Employment Promotion and Protection against Unemployment, 1988

A request regarding certain points is being addressed directly to *Switzerland.*

Convention No. 169: Indigenous and Tribal Peoples, 1989

Colombia (ratification: 1991)

The Committee notes with interest the Government's report. It notes with interest its continuing efforts to strengthen the recognition of the rights of the indigenous peoples of the country, in particular in the continuing process of demarcation of indigenous territories. The Committee also welcomes the increased attention to teaching indigenous peoples about their rights under the legislation in force, in order to empower them to defend their own interests. It also notes with interest the decisions of the Constitutional Court upholding the rights of the indigenous peoples, including their right to a separate and distinct identity. In addition, it notes the measures taken to recognize a special legal regime for indigenous peoples, taking into account their customary law. However, it has also noted indications of a diminution of the special attention given to indigenous communities in access to credit and marketing facilities, and hopes the Government will ensure that these communities are not disadvantaged in this respect.

These questions are being developed in more detail in a request being addressed directly to the Government.

Mexico (ratification: 1990)

The Committee recalls that in its previous observation it took note of the situation in Chiapas, and suggested that the Government might wish to have recourse to the technical assistance of the International Labour Office in order to increase basic protection for indigenous workers' rights and to improve working conditions. It notes further the discussion which took place on this point during the Conference in June 1995, and that the Conference Committee on the Application of Standards urged the Government to pursue this possibility.

The Committee notes that a representative of the Director-General has held preliminary discussions on this point in Mexico, and that a request has been received during its session for the Office to work with the Government in this respect, by methods which are to be settled in the near future.

The Committee hopes that the Office's collaboration will assist the Government in overcoming obstacles to providing to the indigenous peoples the full protection of the national labour law, as required by the present Convention. It also hopes the Government will be in a position to provide information on the outcome of its consultations with the Office, in its next report.

Finally, the Committee hopes that the Government will provide detailed information in its next report on the points raised in its previous comments.

[The Government is asked to report in detail in 1996.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Colombia, Mexico*.

Convention No. 172: Working Conditions (Hotels and Restaurants), 1991

A request regarding certain points is being addressed directly to *Spain*.

Appendix I. Receipt of detailed reports on ratified Conventions as at 8 December 1995

(article 22 of the Constitution)

State Member	*Reports received*		*Reports not received*		*Grand Total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
AFGHANISTAN	2	106 111	2	14 105	4
ALBANIA	0		14	6 10 11 16 29 52 58 59 77 78 87 98 100 112	14
ALGERIA	19	11 13 14 24 44 56 71 77 78 81 87 94 95 97 101 105 111 122 150	2	98 144	21
ANGOLA	0		6	81 98 105 107 108 111	6
ANTIGUA AND BARBUDA	10	11 12 14 87 94 98 101 105 108 111	1	81	11
ARGENTINA	7	9 22 81 98 105 111 144	1	154	8
ARMENIA	0		1	111	1
AUSTRALIA	9	81 92 98 105 111 133 135 144 158	0		9
AUSTRIA	5	81 98 105 111 144	0		5
AZERBAIJAN	13	13 88 98 111 131 133 135 140 144 147 151 154 160	0		13
BAHAMAS	15	5 7 10 11 12 14 19 22 45 81 95 97 98 105 144	0		15
BAHRAIN	3	14 81 89	0		3
BANGLADESH	4	81 98 105 111	1	144	5
BARBADOS	0		6	81 98 105 111 115 144	6
BELARUS	5	26 98 111 144 150	0		5
BELGIUM	8	81 98 105 107 111 140 144 151	1	82	9
BELIZE	3	81 98 105	0		3
BENIN	3	98 105 111	0		3
BOLIVIA	0		9	5 14 81 87 98 105 106 111 160	9

Observations concerning ratified Conventions

State Member	***Reports received***		***Reports not received***		***Grand Total***
	Total	***Conventions Nos.***	***Total***	***Conventions Nos.***	
BOSNIA AND HERZEGOVINA	0		7	8 14 22 23 81 98 111	7
BRAZIL	8	81 98 105 111 136 147 154 168	0		8
BULGARIA	23	8 9 11 14 22 23 24 25 34 44 45 52 55 56 71 77 78 87 94 95 106 111 124	2	81 98	25
BURKINA FASO	7	11 14 41 81 98 111 135	0		7
BURUNDI	0		16	11 12 14 17 29 42 52 81 87 89 90 94 100 101 105 111	16
CAMEROON	4	94 105 111 132	4	81 98 135 162	8
CANADA	3	105 111 147	0		3
CAPE VERDE	4	81 98 105 111	0		4
CENTRAL AFRICAN REPUBLIC	19	2 3 5 6 11 13 19 29 33 41 52 81 87 94 100 101 105 111 118	5	10 14 98 99 117	24
CHAD	8	6 29 81 87 98 100 105 111	5	11 14 41 52 95	13
CHILE	3	111 127 144	0		3
CHINA	2	100 144	0		2
COLOMBIA	4	81 98 105 111	0		4
COMOROS	7	14 52 77 78 95 101 105	6	11 81 87 98 106 122	13
CONGO	5	11 14 87 95 150	0		5
COSTA RICA	14	1 16 81 98 105 106 111 114 122 130 131 144 148 159	1	169	15
COTE D'IVOIRE	6	81 96 98 105 111 144	0		6
CROATIA	2	98 111	0		2
CUBA	4	81 98 105 111	0		4
CYPRUS	8	81 98 102 105 111 114 122 144	3	97 100 143	11
CZECH REPUBLIC	3	98 111 148	0		3
DENMARK	6	81 98 105 111 144 163	0		6

State Member	*Reports received*		*Reports not received*		*Grand Total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
DJIBOUTI	3	81 98 105	19	11 14 24 29 44 52 55 77 78 88 94 95 100 101 106 115 120 122 124	22
DOMINICA	20	8 11 12 14 16 19 22 26 29 81 87 94 95 97 98 100 105 108 111 138	0		20
DOMINICAN REPUBLIC	5	81 98 105 111 171	0		5
ECUADOR	6	81 98 105 111 144 162	1	153	7
EGYPT	7	56 81 98 105 111 118 144	0		7
EL SALVADOR	2	105 107	0		2
EQUATORIAL GUINEA	0		2	14 100	2
ETHIOPIA	7	96 98 111 155 156 158 159	0		7
FIJI	2	98 105	0		2
FINLAND	5	81 98 105 111 144	0		5
FRANCE	3	81 98 105	11	27 82 88 94 111 124 127 133 137 144 152	14
GABON	5	81 98 105 111 144	0		5
GERMANY	9	81 98 105 144 148 150 160 162 167	1	111	10
GHANA	6	81 87 89 94 98 117	24	1 8 11 14 22 23 45 50 58 64 88 90 92 100 105 106 107 108 111 115 148 149 150 151	30
GREECE	6	81 98 105 111 144 160	0		6
GRENADA	0		3	81 98 105	3
GUATEMALA	32	11 13 14 29 50 59 64 77 78 81 87 94 95 97 98 101 103 105 106 111 114 117 122 124 131 138 141 144 160 161 162 167	0		32

Observations concerning ratified Conventions

State Member	*Reports received*		*Reports not received*		*Grand Total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
GUINEA	0		5	81 98 105 111 133	5
GUINEA-BISSAU	20	1 6 12 14 17 18 19 26 27 29 45 81 88 89 98 100 105 106 107 111	8	7 68 69 73 74 91 92 108	28
GUYANA	5	81 98 105 111 144	0		5
HAITI	0		19	12 14 17 24 25 29 42 45 77 78 81 87 90 98 100 105 106 107 111	19
HONDURAS	5	81 95 98 105 111	0		5
HUNGARY	7	24 81 98 105 111 144 165	0		7
ICELAND	7	98 105 122 139 144 155 159	1	111	8
INDIA	4	81 107 136 160	2	111 144	6
INDONESIA	2	98 144	1	45	3
IRAN, ISLAMIC REP. OF	3	14 105 111	0		3
IRAQ	2	111 144	10	11 42 81 88 89 98 105 145 150 167	12
IRELAND	5	81 98 105 144 147	0		5
ISRAEL	4	81 98 105 111	0		4
ITALY	7	81 98 105 106 111 122 144	0		7
JAMAICA	10	8 11 58 81 87 94 97 98 105 111	4	100 117 122 150	14
JAPAN	3	81 98 120	0		3
JORDAN	5	81 98 105 111 124	0		5
KENYA	4	81 98 105 144	0		4
KOREA, REPUBLIC OF	2	73 81	0		2
KUWAIT	5	87 105 106 111 117	2	52 81	7
KYRGYZSTAN	7	52 77 78 95 106 115 124	7	87 98 111 122 133 147 160	14
LATVIA	13	98 100 105 106 108 115 119 120 131 142 148 149 150	4	111 122 135 151	17

State Member	*Reports received*		*Reports not received*		*Grand Total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
LEBANON	6	8 9 71 73 81 133	6	58 74 98 105 111 147	12
LESOTHO	6	5 11 14 45 87 98	0		6
LIBERIA	0		10	22 23 29 55 87 98 105 111 114 133	10
LIBYAN ARAB JAMAHIRIYA	10	29 88 95 98 100 105 111 118 122 131	6	14 52 81 89 121 130	16
LITHUANIA	0		3	11 14 24	3
LUXEMBOURG	4	77 78 98 105	14	8 9 22 23 53 68 69 73 74 81 92 108 147 166	18
MADAGASCAR	8	29 81 87 119 120 124 127 132	4	95 111 117 122	12
MALAWI	5	81 98 111 144 159	0		5
MALAYSIA	2	81 98	0		2
MALAYSIA (SABAH)	2	94 97	0		2
MALAYSIA (SARAWAK)	2	11 94	0		2
MALI	4	81 98 105 111	0		4
MALTA	5	73 81 98 105 111	2	136 149	7
MAURITANIA	2	81 111	0		2
MAURITIUS	4	81 98 105 144	0		4
MEXICO	5	96 105 111 144 172	0		5
MOLDOVA, REPUBLIC OF	0		1	105	1
MONGOLIA	3	98 111 122	1	87	4
MOROCCO	5	81 98 105 111 158	0		5
MOZAMBIQUE	9	11 14 17 18 81 88 100 105 111	0		9
MYANMAR	1	29	1	87	2
NEPAL	4	14 100 111 131	0		4
NETHERLANDS	14	81 96 97 98 105 115 122 140 144 145 150 154 155 160	2	45 111	16
NEW ZEALAND	4	81 105 111 144	0		4
NICARAGUA	4	98 105 111 144	0		4

State Member	*Reports received*		*Reports not received*		*Grand Total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
NIGER	6	81 98 105 111 142 148	0		6
NIGERIA	4	81 87 98 105	2	133 144	6
NORWAY	7	81 98 105 111 144 163 170	0		7
PAKISTAN	10	11 14 18 32 59 81 98 105 106 111	0		10
PANAMA	16	22 52 64 68 73 87 89 92 94 98 105 107 111 117 122 126	1	81	17
PAPUA NEW GUINEA	0		16	2 7 8 10 11 12 22 26 29 42 45 85 98 99 105 122	16
PARAGUAY	0		6	81 98 105 111 159 169	6
PERU	5	20 81 98 105 111	0		5
PHILIPPINES	5	98 105 111 144 159	1	19	6
POLAND	6	98 105 108 111 144 160	0		6
PORTUGAL	5	98 105 111 144 160	1	81	6
QATAR	2	81 111	0		2
ROMANIA	5	81 98 111 144 154	0		5
RUSSIAN FEDERATION	5	13 98 133 147 160	1	111	6
RWANDA	10	11 14 81 87 94 98 105 111 132 135	0		10
SAINT LUCIA	0		24	5 7 8 11 12 14 16 17 19 26 29 50 64 65 87 94 95 97 98 100 101 105 108 111	24
SAN MARINO	4	98 111 143 144	0		4
SAO TOME AND PRINCIPE	0		11	17 18 81 87 88 98 100 106 111 144 159	11
SAUDI ARABIA	3	81 105 111	0		3
SENEGAL	0		5	81 98 105 111 122	5

State Member	*Reports received*		*Reports not received*		*Grand Total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
SEYCHELLES	0		8	2 10 11 29 58 105 108 149	8
SIERRA LEONE	0		9	22 81 87 94 98 101 105 111 144	9
SINGAPORE	2	81 98	1	105	3
SLOVAKIA	4	98 111 115 148	0		4
SLOVENIA	3	81 98 111	0		3
SOLOMON ISLANDS	0		13	8 11 12 14 19 26 29 42 45 81 94 95 108	13
SOMALIA	0		11	16 17 19 22 23 29 45 94 95 105 111	11
SPAIN	8	81 98 105 111 144 158 165 172	0		8
SRI LANKA	0		5	81 98 100 103 160	5
SUDAN	4	81 98 105 111	0		4
SURINAME	4	81 105 118 144	0		4
SWAZILAND	5	81 98 105 111 144	1	160	6
SWEDEN	6	81 98 105 111 133 144	1	164	7
SWITZERLAND	3	81 105 111	0		3
SYRIAN ARAB REPUBLIC	5	81 98 105 111 144	0		5
TAJIKISTAN	12	14 23 52 77 78 87 95 106 111 115 122 124	4	98 133 147 160	16
TANZANIA (UNITED REPUBLIC OF)	2	98 144	3	94 105 134	5
TANZANIA (TANGANYIKA)	1	81	0		1
TANZANIA (ZANZIBAR)	0		1	97	1
THAILAND	1	105	0		1
TOGO	3	98 111 144	0		3
TRINIDAD AND TOBAGO	5	87 97 98 105 111	0		5
TUNISIA	4	81 98 105 111	0		4
TURKEY	13	14 26 59 81 87 88 98 105 111 135 142 144 151	0		13

State Member	*Reports received*		*Reports not received*		*Grand Total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
UGANDA	5	29 94 105 124 143	7	11 17 81 98 144 154 158	12
UKRAINE	6	2 98 111 133 144 160	0		6
UNITED ARAB EMIRATES	1	81	0		1
UNITED KINGDOM	7	17 44 81 98 102 105 144	0		7
UNITED STATES	2	105 144	0		2
URUGUAY	7	81 98 105 111 122 144 153	0		7
VENEZUELA	5	81 98 105 111 144	1	122	6
VIET NAM	10	5 6 14 27 45 81 120 123 124 155	0		10
YEMEN	1	81	12	14 58 94 95 98 105 111 122 132 135 156 159	13
ZAIRE	0		16	11 12 14 29 81 88 89 94 95 98 100 102 117 121 150 158	16
ZAMBIA	4	105 111 144 159	0		4
ZIMBABWE	5	26 81 99 129 144	0		5
GRAND TOTAL	824		428		1252
OTHER STATES					
NAURU	0		5	19 27 29 42 105	5
SAMOA	0		2	14 29	2

Appendix II. Statistical table of reports received on ratified Conventions as at 8 December 1995

(article 22 of the Constitution)

Period	Reports Requested	Reports received at the date requested		Reports received in time for the session of the Committee		Reports received in time for the session of the Conference	
		Number	Percentage	Number	Percentage	Number	Percentage
1931-1932	447	-	-	406	90.8	423	94.6
1932-1933	522	-	-	435	83.3	453	86.7
1933-1934	601	-	-	508	84.5	544	90.5
1934-1935	630	-	-	584	92.7	620	98.4
1935-1936	662	-	-	577	87.2	604	91.2
1936-1937	702	-	-	580	82.6	634	90.3
1937-1938	748	-	-	616	82.4	635	84.9
1938-1939	766	-	-	588	76.8	-	-
1943-1944	583	-	-	251	43.1	314	53.9
1944-1945	725	-	-	351	48.4	523	72.2
1945-1946	731	-	-	370	50.6	578	79.1
1946-1947	763	-	-	581	76.1	666	87.3
1947-1948	799	-	-	521	65.2	648	81.1
1948-1949	806	134	16.6	666	82.6	695	86.2
1949-1950	831	253	30.4	597	71.8	666	80.1
1950-1951	907	288	31.7	507	77.7	761	83.9
1951-1952	981	268	27.3	743	75.7	826	84.2
1952-1953	1026	212	20.6	840	81.8	917	89.3
1953-1954	1175	268	22.8	1077	91.7	1119	95.2
1954-1955	1234	283	22.9	1063	86.1	1170	94.8
1955-1956	1333	332	24.9	1234	92.5	1283	96.2
1956-1957	1418	210	14.7	1295	91.3	1349	95.1
1957-1958	1558	340	21.8	1484	95.2	1509	96.8
1958-1959	995[2]	200	20.4	864	86.8	902	90.6
1958-1960	1100	256	23.2	838	76.1	963	87.4
1959-1961	1362	243	18.1	1090	80.0	1142	83.8
1960-1962	1309	200	15.5	1059	80.9	1121	85.6
1961-1963	1624	280	17.2	1314	80.9	1430	88.0
1962-1964	1495	213	14.2	1268	84.8	1356	90.7
1963-1965	1700	282	16.6	1444	84.9	1527	89.8
1964-1966	1562	245	16.3	1330	85.1	1395	89.3
1965-1967	1883	323	17.4	1551	84.5	1643	89.6
1966-1968	1647	281	17.1	1409	85.5	1470	89.1
1967-1969	1821	249	13.4	1501	82.4	1601	87.9
1968-1970	1894	360	18.9	1463	77.0	1549	81.6
1969-1971	1992	237	11.8	1504	75.5	1707	85.6
1970-1972	2025	297	14.6	1572	77.6	1753	86.5
1971-1973	2048	300	14.6	1521	74.3	1691	82.5
1972-1974	2189	370	16.5	1854	84.6	1958	89.4
1973-1975	2034	301	14.8	1663	81.7	1764	86.7
1974-1976	2200	292	13.2	1831	83.0	1914	87.0

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[1] First year for which this figure is available.

[2] As a result of a decision by the Governing Body, detailed reports were requested as from 1958-59 until 1976 only on certain ratified Conventions.

Period	Reports Requested	Reports received at the date requested		Reports received in time for the session of the Committee		Reports received in time for the session of the Conference	
		Number	Percentage	Number	Percentage	Number	Percentage
-1977	1529[1]	215	14.0	1120	73.2	1328	87.0
-1978	1701	251	14.7	1289	75.7	1391	81.7
-1979	1593	234	14.7	1270	79.8	1376	86.4
-1980	1581	168	10.6	1302	82.2	1437	90.8
-1981	1543	127	8.1	1210	78.4	1340	86.7
-1982	1695	332	19.4	1382	81.4	1493	88.0
-1983	1737	236	13.5	1388	79.9	1558	89.6
-1984	1669	189	11.3	1286	77.0	1412	84.6
-1985	1666	189	11.3	1312	78.7	1471	88.2
-1986	1752	207	11.8	1388	79.2	1529	87.3
-1987	1793	171	9.5	1408	78.4	1542	86.0
-1988	1636	149	9.0	1230	75.9	1384	84.4
-1989	1719	196	11.4	1256	73.0	1409	81.9
-1990	1958	192	9.8	1409	71.9	1639	83.7
-1991	2010	271	13.4	1411	69.9	1544	76.8
-1992	1824	313	17.1	1194	65.4	1384	75.8
-1993	1906	471	24.7	1233	64.6	1473	77.2
-1994	2290	370	16.1	1573	68.7	1879	82.0
-1995[4]	1252	479	38.2	824	65.8	-	-

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[1] As a result of a decision by the Governing Body (November 1976), detailed reports are now requested, according to certain criteria, at yearly, two-yearly or four-yearly intervals.

[4] As a result of a decision by the Governing Body (November 1993), detailed reports on only five ratified Conventions were exceptionaly requested in 1995.

II. Observations on the application of Conventions in non-metropolitan territories

(article 22 and article 35, paragraphs 6 and 8, of the Constitution)

A. General observations

France

French Southern and Antarctic Territories

Further to its previous observations, the Committee notes the discussions in the Conference Committee on the Application of Standards in 1995 concerning the application of Conventions in the French Southern and Antarctic Territories.

The Committee notes that the Government states once again that the transmission of the reports requested has been deferred up to now while awaiting the conclusion of the procedure embarked upon in 1988 before the Conseil d'Etat for the purposes of determining the legality of registration and, in particular, its conformity with the international Conventions ratified by France. The Government also promised to transmit urgently to the Office the updated version of the Order of 23 November 1987 respecting the safety of ships and its regulations, which are the indispensable texts for the application in the French Southern and Antarctic Territories of Act No. 83-581 of 5 July 1983 and its Decree of 31 August 1984, which give effect in essence to the provisions of Conventions Nos. 92 and 133. The Government also states that section 27 of the Bill respecting the modernization of transport, adopted by the National Assembly on 18 November 1994 and which is to be submitted to the Senate, explicitly deals with the question of the labour regime governing crew employed on ships registered in the French Southern and Antarctic Territories. The above section provides that all seafarers engaged on these vessels are subject to the provisions of the Overseas Labour Code of 1952, as well as to certain of the provisions of the Maritime Labour Code, and that if the seafarers concerned are not resident in France, the parties to the articles of engagement can apply the law of the place of residence of the seafarer to determine the conditions of engagement, remuneration, leave and repatriation, as well as the social protection system. According to the Government, this provision is in accordance with the legislation governing contractual obligations which has been in force since 1 April 1991 throughout the French territory.

With regard to the applicability of the Maritime Labour Code in place of the Overseas Labour Code, the Government states that it does not envisage this solution. However, it states that it has undertaken to extend the scope of certain provisions of the Maritime Labour Code to the French Southern and Antarctic Territories by legislative means on the basis of the opinion of the Conseil d'Etat dated 27 February 1990, which indicates that, unless explicitly mentioned otherwise, the Maritime Labour Code is not applicable in the overseas territories.

The Committee also notes the concern of the Worker members at the gravity and complexity of the present case which, in their opinion, results in a situation in which flags of convenience are used to engage foreign seafarers under discriminatory conditions in relation to French seafarers. It also notes that the Employer members referred to the failure to supply the first reports due since 1992 and the difficulty of clarifying this matter on the basis of the information provided by the Government. Finally, it notes the concern of the Conference Committee on the Application of Standards at the absence of detailed reports describing the manner in which the 17 Conventions referred to in the previous general observation are applied.

The Committee recalls once again that it has already made several detailed comments concerning the Conventions declared applicable to the territory, and has referred in particular to the large number of seafarers employed on ships registered in the territory. The Committee once again requests the Government to communicate to the Office detailed reports indicating the manner in which the above Conventions are applied.

The Committee also requests the Government to supply a copy of the decision of the Conseil d'Etat as soon as it is issued on the question of the legality of registration, as well as a copy of the decision of the Social Chamber of the Court of Cassation of 12 January 1993, to which it referred in its statement to the Conference Committee on the Application of Standards.

The Committee also requests the Government to transmit as soon as possible to the Office the updated version of the Order of 23 November 1987 respecting the security of ships and its regulations. It also requests the Government to supply the full text of the Act respecting the modernization of transport, as soon as it has been adopted in its definitive version, as well as any provision of the Maritime Labour Code which has been extended by legislative or other means to the French Southern and Antarctic Territories.

Furthermore, the Committee notes once again that the first reports due since 1992 on Conventions Nos. 53, 69, 74, 92, 133 and 134 have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all reports on the application of ratified Conventions.

[The Government is asked to supply full particulars to the Conference at its 83rd Session on Conventions Nos. 9, 16, 22, 23, 53, 58, 68, 69, 73, 74, 87, 92, 108, 133, 134, 146 and 147.]

* * *

In addition, requests regarding certain points are being addressed directly to *France* (French Guiana, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon), *Netherlands* (Aruba) and *United States* (American Samoa, Guam, Northern Mariana Islands, Puerto Rico, Virgin Islands).

B. Individual observations

Convention No. 8: Unemployment Indemnity (Shipwreck), 1920

A request regarding certain points is being addressed directly to *France* (French Southern and Antarctic Territories).

Convention No. 13: White Lead (Painting), 1921

Requests regarding certain points are being addressed directly to *France* (French Guiana, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon).

Convention No. 14: Weekly Rest (Industry), 1921

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 16: Medical Examination of Young Persons (Sea), 1921

A request regarding certain points is being addressed directly to *France* (French Southern and Antarctic Territories).

Convention No. 19: Equality of Treatment (Accident Compensation), 1925

France

French Polynesia

Article 1, paragraph 2, of the Convention. In reply to the Committee's previous comments, the Government states that the governing council of the Social Insurance Fund issued a favourable opinion at its meeting on 26 February 1993 for the amendment of section 29 of Decree No. 57-245 of 24 February 1957, with a view to ensuring that the nationals of a member State that has ratified the Convention are granted the same benefits as French insured persons, without any condition as to residence. It adds that the draft Decision for this purpose, which was transmitted on 21 April 1993 by the labour inspection service to the Government of French Polynesia, has still to be examined by the Territorial Assembly. The Committee takes due note of this information. It hopes that the above draft text will be adopted in the near future and that the Government will not fail to provide a copy of it as soon as it is adopted.

Convention No. 22: Seamen's Articles of Agreement, 1926

Requests regarding certain points are being addressed directly to *France* (French Southern and Antarctic Territories) and *United Kingdom* (Gibraltar).

Convention No. 23: Repatriation of Seamen, 1926

A request regarding certain points is being addressed directly to *France* (French Southern and Antarctic Territories).

Convention No. 42: Workmen's Compensation (Occupational Diseases) (Revised), 1934

France

French Guiana

See under Convention No. 42, France.

French Polynesia

With reference to its previous comments, the Committee notes that according to the Government's last report there has been no change concerning the schedule enumerating occupational diseases which is annexed to Order No. 826/CM of 6 August 1990 and has the same characteristics as the schedule prescribed in sections L.461-2 and R-461-3 of the Social Security Code of Metropolitan France. In these circumstances, the Committee can only once again express the hope that the necessary measures will be taken shortly to bring the national legislation into full conformity with the Convention on the following points: (a) the restrictive nature of the pathological manifestations listed under each of the diseases included in the schedules of the national legislation; (b) the absence from the those schedules of an item covering in general terms, as in the Convention, poisoning by all halogen derivatives of hydrocarbons of the aliphatic series and by all compounds of phosphorous; and (c) the omission, from among trades likely to cause primary epitheliomatous cancer of the skin, of processes involving the handling of certain products mentioned by the Convention.

The Committee also asks the Government to refer to the observation it is addressing to France with regard to the application of Convention No. 42.

Guadeloupe

See under Convention No. 42, France.

Martinique

See under Convention No. 42, France.

Réunion

See under Convention No. 42, France.

St. Pierre and Miquelon

In reply to the Committee's previous comments, the Government states again that the schedule of occupational diseases in force for the Metropol and overseas departments does not apply *ipso facto* to the Territorial Community of St. Pierre and Miquelon which has full competence, under section 44 of the Decree of 24 February 1957, to decide on the extensions to the orders making them applicable within its territorial jurisdiction. In these circumstances, the French Government can only use its influence to persuade the community to issue orders extending the schedule in question, permitting compensation for the pathological manifestations referred to in *Article 2 of the Convention*. It adds moreover that the territorial community of 6,000 inhabitants which has apparently not recorded occupational diseases seems to be in no hurry to issue such an extension.

While noting this information, the Committee trusts that the Government will do its utmost to draw the attention of the Territorial Community to the need to take suitable measures to give effect to this Convention which has been applicable to St. Pierre and Miquelon since 1974.

* * *

In addition, a request regarding certain points is being addressed directly to *France* (New Caledonia).

Convention No. 44: Unemployment Provision, 1934

France

French Polynesia

The Committee refers to the comments it has been making for several years on the need to adopt regulations determining the modality of implementing the principle of assistance to persons who are involuntarily unemployed, as set out in section 48 of Act No. 86-845 of 17 July 1986, of which the provisions were repeated in sections 18 to 20 of resolution No. 91-029/AT of 24 July 1991 pertaining to placement and employment. In its report, the Government indicates that the system of assistance to workers who are unemployed must be subject to a resolution by the territorial assembly but that the discussions begun on this subject in 1989 have been broken off. After mentioning certain differences of opinion between occupational groupings of employers and certain trade union organizations, it adds that the question should be addressed again in the near future by the High Committee on Employment, Occupational Training and Social Welfare, along with the possibility of also establishing assistance for partial unemployment for employees of firms suffering momentary difficulties.

The Committee notes this information. It recalls that in the absence of texts implementing the principle of assistance for unemployment, application of the Convention is not ensured. Consequently, it expresses the hope that the territorial regulations determining the modality of implementing the right to assistance for unemployment, including partial unemployment, will be adopted in the near future and that they will take due account of the Convention. More specifically with reference to the opinion of occupational groupings of employers, most of whom consider that assistance to unemployed workers must be active, of limited duration and accompanied by temporary work or occupational training, the Committee wishes to draw attention specifically to *Articles 8 and 9 of the Convention*. The Committee states that under Articles 8 and 9, the right to receive benefit or an allowance may be made conditional upon attendance at a course of vocational or other instruction and upon the acceptance of employment on relief works organized by a public authority.

[The Government is requested to supply a detailed report in 1996.]

* * *

In addition, a request regarding certain points is being addressed directly to *France* (St. Pierre and Miquelon).

Convention No. 53: Officers' Competency Certificates, 1936

France

French Southern and Antarctic Territories

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee refers to its general observation for the territories.
>
> The Committee notes with regret that the first report that was due in 1992 has not yet been received. It hopes the Government will meet this obligation by submitting a detailed and complete first report in accordance with the report form approved by the Governing Body of the ILO.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 55: Shipowners' Liability (Sick and Injured Seamen), 1936

Requests regarding certain points are being addressed directly to the *United States* (American Samoa, Guam, Puerto Rico, Virgin Islands).

Convention No. 58: Minimum Age (Sea) (Revised), 1936

A request regarding certain points is being addressed directly to *France* (French Southern and Antarctic Territories).

Convention No. 68: Food and Catering (Ships' Crews), 1946

A request regarding certain points is being addressed directly to *France* (French Southern and Antarctic Territories).

Convention No. 69: Certification of Ships' Cooks, 1946

France

French Southern and Antarctic Territories

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee refers to its general observation for the territories.
>
> The Committee notes with regret that the first report that was due in 1992 has not yet been received. It hopes the Government will meet this obligation by submitting a detailed and complete first report in accordance with the report form approved by the Governing Body of the ILO.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 73: Medical Examination (Seafarers), 1946

A request regarding certain points is being addressed directly to *France* (French Southern and Antarctic Territories).

Convention No. 74: Certification of Able Seamen, 1946

France

French Southern and Antarctic Territories

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observations which read as follows:

> The Committee refers to its general observation for the territories.
>
> The Committee notes with regret that the first report that was due in 1992 has not yet been received. It hopes the Government will meet this obligation by submitting a detailed and complete first report in accordance with the report form approved by the Governing Body of the ILO.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 77: Medical Examination of Young Persons (Industry), 1946

A request regarding certain points is being addressed directly to *France* (St. Pierre and Miquelon).

Convention No. 78: Medical Examination of Young Persons (Non-Industrial Occupations), 1946

A request regarding certain points is being addressed directly to *France* (St. Pierre and Miquelon).

Convention No. 81: Labour Inspection, 1947

France

French Guiana

See under Convention No. 81, France.

Guadeloupe

See under Convention No. 81, France.

Martinique

See under Convention No. 81, France.

Réunion

See under Convention No. 81, France.

St. Pierre and Miquelon

See under Convention No. 81, France.

* * *

In addition, requests regarding certain points are being addressed directly to *Netherlands* (Aruba) and *United Kingdom* (Gibraltar).

Convention No. 82: Social Policy (Non-Metropolitan Territories), 1947

United Kingdom

Bermuda

With reference to its earlier comments concerning the absence of any provision contained in laws or regulations to ensure the protection of wages, the Committee notes that there has been no progress in this field and that the Government simply repeats in its report that there is no specific protection of wages legislation, but that all the provisions prescribed by *Articles 15 and 16 of the Convention* are observed by means of collective agreements, custom and practice. It notes also that Articles 15 and 16 are still under review and that no decision has been made as to the extent of the need to legislate or regulate.

The Committee recalls that it has asked the Government for a number of years to take measures to ensure the application of these provisions of the Convention. It would again point out that certain provisions of the Convention require explicitly that action be taken to regulate the areas concerned. In respect of Article 16, it may be difficult by means of local custom to regulate the amount and manner of repayment of advances on wages, and to make any advances in excess of this amount legally irrecoverable. Matters covered by Article 15 as well would appear to call for measures with force of law, unless covered explicitly by collective agreements which are applied to all employed persons. The Committee points out that the necessary measures could be taken by administrative regulation, and do not necessarily require the adoption of legislation.

The Committee therefore hopes that the Government will take the necessary measures to apply these Articles of the Convention. It requests it also to provide detailed information on the collective agreements, custom and practice in this regard.

Convention No. 87: Freedom of Association and Protection of the Right to Organize, 1948

A request regarding certain points is being addressed directly to the *United Kingdom* (Montserrat).

Convention No. 92: Accommodation of Crews (Revised), 1949

France

French Southern and Antarctic Territories

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee refers to its general observation for the territories.
>
> The Committee notes with regret that the first report that was due in 1992 has not yet been received. It hopes the Government will meet this obligation by submitting a detailed and

complete first report in accordance with the report form approved by the Governing Body of the ILO.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 94: Labour Clauses (Public Contracts), 1949

Requests regarding certain points are being addressed directly to *France* (French Polynesia), *Netherlands* (Aruba) and *United Kingdom* (Bermuda, British Virgin Islands).

Convention No. 95: Protection of Wages, 1949

Requests regarding certain points are being addressed directly to *France* (French Polynesia) and *Netherlands* (Aruba).

Convention No. 98: Right to Organize and Collective Bargaining, 1949

France

French Southern and Antarctic Territories

The Committee notes that the Government's report has not been received. It has however taken note of the statement made by a representative of the Government to the Conference Committee in June 1995 and of the following discussion.

The Committee recalls that the comments made by the National Federation of Seafarers' Unions (FNSM) concerned a Decree and an Order of 4 August 1993 on registration in the French Southern and Antarctic Territories (TAAF), amending Decree No. 87.190 of 20 March 1987 and the Order to 20 March 1987. According to the FNSM, these dispositions were extended to almost all French vessels, and the treatment on board these vessels was discriminatory for foreign seafarers from poor countries, in breach of ILO Conventions.

In its previous report the Government had indicated that the Overseas Labour Code applied to seafarers on vessels registered in the TAAF. However, it explained that no collective agreements had been concluded because the social partners had failed to conclude any. It had nevertheless specified that the Secretary of State for the Sea was endeavouring to obtain a commitment to negotiation in order to establish enterprise-level collective agreements. It had added that the question of the legality of the Decree of 4 August 1993 with respect to the international Conventions ratified by France was before the Council of State. In addition it had indicated that a draft law on the modernization of transport, which contains provisions concerning the licensing of ships in the TAAF, will be debated at the next parliamentary session.

The representative of the Government explained before the Conference Committee that the Maritime Labour Code did not apply to the TAAF as indicated in the opinion of the Council of State of 27 January 1990. He stated that the Government envisaged to extend by legislation certain provisions of the Maritime Labour Code to the TAAF.

The Committee, as well as the Conference Committee, expressed its concern in view of the ambiguity about the Statute of the Registration of Ships in the TAAF and the legal and practical consequences thereof. It reminded the Government once again that on ratifying the Convention it undertook to encourage and promote the development and utilization of machinery for voluntary collective bargaining as a means of regulating the terms and conditions of employment of seafarers.

It again asked the Government to indicate in its next report whether the call for collective negotiations made by the Secretary of State for the Sea to the social partners in the maritime sector has led to the conclusion of collective agreements on board vessels registered in the TAAF and, if so, to provide copies of any such agreements. Moreover, it requested the Government to provide a copy of the judgement handed down by the Council of State on the issue of the Decree of 4 August 1993 as well as the draft law referred to by the Government in its latest report.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

United Kingdom

Isle of Man

1. The Committee notes the Government's report as well as the contents of the Trade Unions (Amendment) Bill 1994 which has now become law.

2. The Committee notes with interest that *clause 4* provides that a cancellation of registration of a trade union or employers' association is stayed pending an appeal and that *clause 5* amends the categories of essential services in the Trade Unions Act 1991 so as to cover services whose disruption will cause danger to the life, health or personal safety of the whole or any part of the community instead of economic damage.

3. The Committee also notes the Government's statement that having recently amended the 1991 Trade Unions Act, it is now in the process of examining the operation of its 1991 Employment Act. The Committee trusts that this examination will lead the Government to take steps to ensure that there is adequate legislative protection against anti-union discrimination at the time of recruitment, as well as against dismissal on grounds of trade union membership or activities, in conformity with *Article 1 of the Convention*. It accordingly requests the Government to keep it informed of any progress made in the adoption of such legislative measures so as to bring its legislation into full conformity with the requirements of the Convention.

* * *

In addition, requests regarding certain points are being addressed to the *United Kingdom* (Guernsey, Hong Kong).

Convention No. 100: Equal Remuneration, 1951

Requests regarding certain points are being addressed directly to *France* (French Guiana, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon).

Convention No. 101: Holidays with Pay (Agricultur [illegible] 952

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 105: Abolition of Forced Labour, 1957

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 106: Weekly Rest (Commerce and Offices), 1957

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 108: Seafarers' Identity Documents, 1958

A request regarding certain points is being addressed directly to *France* (French Southern and Antarctic Territories).

Convention No. 111: Discrimination (Employment and Occupation), 1958

France

French Southern and Antarctic Territories

1. With reference to its previous observations, the Committee has noted the comments made by the National Federation of Maritime Trade Unions (FNSM) sent by letter of 9 August 1994, and repeated in a letter of 17 January 1995, which recall that the situation of foreign seamen employed on board French ships registered in the French Southern and Antarctic Territories has not improved and has even worsened so that they continue to be subject to discrimination on the basis of their nationality, in contradiction particularly with *Article 1, paragraph 1(b), of the Convention*. The Committee has also noted the observations of the French Democratic Confederation of Labour (CFDT) dated 13 January 1995 stating that different salaries are paid for equal work on the basis of the contract and country of origin of seafarers working on ships registered in the French Southern and Antarctic Territories.

2. In a general observation of 1995, the Committee noted that, in its reply received on 20 February 1995, the Government reiterated its previous statement that the provisions of Act No. 52-1322 of 15 December 1952 issuing an Overseas Labour Code are applicable to such seafarers, whatever their nationality, along with the standards contained in the ILO Conventions, specifically Convention No. 111, which are implemented directly under the Constitution. The Committee noted that the dispute between the FNSM and the administration responsible for the merchant navy on the legality of Decree No. 87-190 of 20 March 1987 pertaining to the registration of vessels in the French Southern and Antarctic Territories, amended most recently by Decree No. 93-979 of 4 August 1993, had been brought before the Conseil d'Etat of the Republic and that the Committee would be informed of the situation as soon as it was known regarding the legality of that registration and its conformity with the Conventions ratified. The Committee notes that a Bill to modernize transport, submitted to Parliament, will provide greater legal security to the status of seafarers on board vessels registered in the French Southern and Antarctic Territories.

3. The Committee notes, however, that in its above-mentioned comments, sent by letter of 17 January 1995, the FNSM states that the Government replies are incorrect and

incomplete and that no international labour Convention, particularly Convention No. 111, is applied on board French ships registered in the French Southern and Antarctic Territories. Furthermore, the FNSM alleges that the Bill modernizing transport mentioned in the Government's reply will not be applicable to foreign seafarers on board these ships.

4. Moreover, the Committee notes that in its comment of 13 January 1995, the CFDT states that it is quite improper that, six years after the CGT complaint was submitted, the Conseil d'Etat has still not ruled on this appeal. The CFDT also contests the Government's affirmation that the Bill in question will bring greater legal security to the status of seafarers on board these ships.

5. With reference to its previous general observation, the Committee requests the Government once again to supply in its next report detailed information on the measures taken to bring national practice into conformity with section 91 of the Overseas Labour Code and with the Convention. The Committee hopes that the Conseil d'Etat will shortly give its decision on the appeal which has been pending for a number of years and that a copy of it will be sent to the Committee as soon as possible. The Committee also requests the Government to send it a copy of the Act on modernization of transport as soon as it is adopted and to clarify the impact of this law on the situation of foreign seafarers on board vessels registered in the French Southern and Antarctic Territories vis-à-vis the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to *France* (French Polynesia and French Southern and Antarctic Territories).

Convention No. 115: Radiation Protection, 1960

France

French Guiana

See under Convention No. 115, France.

Guadeloupe

See under Convention No. 115, France.

Martinique

See under Convention No. 115, France.

Réunion

See under Convention No. 115, France.

St. Pierre and Miquelon

See under Convention No. 115, France.

* * *

In addition, a request regarding certain points is being addressed directly to *France* (French Guiana, French Polynesia, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon).

Convention No. 122: Employment Policy, 1964

Requests regarding certain points are being addressed directly to *Denmark* (Greenland), *France* (French Polynesia, New Caledonia, St. Pierre and Miquelon), *Netherlands* (Aruba) and *United Kingdom* (Hong Kong, Isle of Man).

Convention No. 129: Labour Inspection (Agriculture), 1969

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 131: Minimum Wage Fixing, 1970

France

Guadeloupe

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following points:

> The Committee noted the comments made by the General Confederation of Labour "Force-ouvrière" (CGT-FO), on the application of the Convention in Guadeloupe, which were forwarded by the Government with its report. It noted that the Government has made no observations on the CGT-FO's comments, according to which it would be fair if the minimum wage (SMIC) applicable in that Department were the same as that in metropolitan France, particularly since, according to the information available to the CGT-FO, in practice the payment of the SMIC could be subject to practices which consist of combining social benefits with a wage which is lower than the SMIC. Through these practices, it is possible to reach a level of overall remuneration which is higher than the SMIC, but which is not subject to social contributions. The CGT-FO considers that the existence of this practice tends to show that the level of the SMIC in Guadeloupe is not such as to ensure a decent standard of living.
>
> The Committee requests the Government to make its observations on these comments. Furthermore, it is addressing a request directly to the Government on other points.

The Committee hopes again that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to *France* (Guadeloupe), and *Netherlands* (Aruba).

Convention No. 133: Accommodation of Crews (Supplementary Provisions), 1970

France

French Southern and Antarctic Territories

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee refers to its general observation for the territories.

> The Committee notes with regret that the first report that was due in 1992 has not yet been received. It hopes the Government will meet this obligation by submitting a detailed and complete first report in accordance with the report form approved by the Governing Body of the ILO.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 134: Prevention of Accidents (Seafarers), 1970

France

French Southern and Antarctic Territories

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation on the following points:

> The Commitee refers to its general observation on the territories.
>
> The Committee notes with regret that the first report that was due in 1992 has not yet been received. It hopes the Government will meet this obligation by submitting a detailed and complete first report in accordance with the report form approved by the Governing Body of the ILO.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 137: Dock Work, 1973

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 140: Paid Educational Leave, 1974

A request regarding certain points is being addressed directly to the *United Kingdom* (Anguilla).

Convention No. 144: Tripartite Consultation (International Labour Standards), 1976

Requests regarding certain points are being addressed directly to *France* (New Caledonia, French Polynesia) and *Netherlands* (Aruba).

Convention No. 145: Continuity of Employment (Seafarers), 1976

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Information supplied by *France* (New Caledonia, French Polynesia) in answer to a direct request has been noted by the Committee.

Convention No. 146: Seafarers' Annual Leave with Pay, 1976

Requests regarding certain points are being addressed directly to *France* (French Southern and Antarctic Territories) and *Netherlands* (Aruba).

Convention No. 147: Merchant Shipping (Minimum Standards), 1976

A request regarding certain points is being addressed directly to *France* (French Southern and Antarctic Territories).

Convention No. 149: Nursing Personnel, 1977

A request regarding certain points is being addressed directly to *France* (French Polynesia).

Convention No. 160: Labour Statistics, 1985

Requests regarding certain points are being addressed directly to *Australia* (Norfolk Island) and *United Kingdom* (Hong Kong, Isle of Man).

Appendix. Receipt of detailed reports on ratified Conventions (non-metropolitan territories) as at 8 December 1995

(articles 22 and 35 of the Constitution)

State Member	*Reports received*		*Reports not received*		*Grand Total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
AUSTRALIA					
NORFOLK ISLAND	4	98 105 142 160	0		4
TOTAL	4		0		4
DENMARK					
FAEROE ISLANDS	2	98 105	0		2
GREENLAND	4	11 14 105 106	0		4
TOTAL	6		0		6
FRANCE					
FR. SOUTHERN & ANTARCTIC TER.	0		20	8 9 16 22 23 53 58 68 69 73 74 87 92 98 108 111 133 134 146 147	20
FRENCH GUIANA	1	98	17	13 32 55 58 81 89 94 100 105 111 112 120 124 129 136 144 149	18
FRENCH POLYNESIA	5	29 105 106 111 115	5	81 94 98 144 149	10
GUADELOUPE	1	98	18	13 32 55 58 81 89 94 100 105 111 112 120 124 129 131 136 144 149	19
MARTINIQUE	1	98	14	13 32 55 58 81 89 94 100 112 120 124 129 136 149	15
NEW CALEDONIA	6	44 81 98 105 111 144	0		6
REUNION	1	98	17	13 32 55 58 81 89 94 100 105 111 112 120 124 129 136 144 149	18
ST. PIERRE AND MIQUELON	1	98	22	13 44 55 56 58 71 77 78 81 82 88 89 94 96 100 105 111 120 124 129 144 149	23
TOTAL	16		113		129

State Member	*Reports received*		*Reports not received*		*Grand Total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
NETHERLANDS					
ARUBA	0		19	8 11 14 22 23 25 81 94 95 101 105 106 122 126 131 137 141 144 146	19
NETHERLANDS ANTILLES	2	81 105	0		2
TOTAL	2		19		21
NEW ZEALAND					
TOKELAU	2	105 111	0		2
TOTAL	2		0		2
UNITED KINGDOM					
ANGUILLA	2	98 105	0		2
BERMUDA	2	98 105	0		2
BRITISH VIRGIN ISLANDS	2	98 105	0		2
FALKLAND ISLANDS (MALVINAS)	2	98 105	0		2
GIBRALTAR	3	81 98 105	0		3
GUERNSEY	4	22 81 98 105	0		4
HONG KONG	5	81 98 105 144 160	0		5
ISLE OF MAN	4	81 98 105 160	0		4
JERSEY	3	81 98 105	0		3
MONTSERRAT	3	87 98 105	0		3
ST. HELENA	2	98 105	0		2
TOTAL	32		0		32
UNITED STATES					
AMERICAN SAMOA	0		1	144	1
GUAM	0		1	144	1
NORTHERN MARIANA ISLANDS	0		1	144	1
PUERTO RICO	0		1	144	1
UNITED STATES VIRGIN ISLANDS	0		1	144	1
TOTAL	0		5		5
GRAND TOTAL					
Grand Total	62		137		199

III. Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference

(article 19 of the Constitution)

Afghanistan

With reference to its previous observations, the Committee notes the information communicated by the Government concerning the administrative difficulties for the delay in the submission. It hopes that the Government will shortly provide the information required under the Memorandum adopted by the Governing Body (Points I, II and III of the questionnaire), concerning the Conventions and Recommendations adopted at the 71st, 72nd, 74th, 75th and 76th Sessions of the Conference, which have already been submitted to the governmental bodies concerned. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th, 78th, 79th, 80th and 81st Sessions have been submitted.

Albania

In the absence of a reply to its previous direct requests, the Committee hopes that the Government will soon indicate that the instruments adopted at the 78th, 79th, 80th and 81st Sessions of the Conference have been submitted to the competent authorities.

Algeria

With reference to its previous observations, the Committee notes the statement by a governmental representative at the Conference Committee on the Application of Standards in 1995 and the ensuing discussion. The Committee also notes the information supplied by the Government in its report concerning the causes of the delay in submission of the instruments adopted at the Conference. It recalls that the instruments adopted at the 65th to the 72nd and at the 75th Sessions of the Conference, which have been sent to the General Secretariat of the Government and to the President of the Republic, should be submitted as soon as circumstances allow, to the Peoples' National Assembly which is the body empowered to issue general rules relating to labour law under article 115 of the Algerian Constitution. The Committee hopes that the Government will shortly indicate whether the instruments adopted at the 74th, 76th, 77th, 78th, 79th and 80th Sessions have also been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 81st Session of the Conference have been submitted.

Antigua and Barbuda

The Committee notes that the Government has not replied to its previous observation. It hopes that it will soon indicate that the instruments adopted at the 68th Session of the Conference, which were submitted to the Cabinet, have also been submitted, in accordance with article 19(5)(b) and (6)(b) of the Constitution of the ILO, to the authorities which are empowered to legislate. The Committee trusts that the Government will submit the above instruments to the legislative body, as well as the instruments adopted at the 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th and 81st Sessions of the Conference. The Committee recalls that the obligation to submit does not imply that governments must propose the ratification of the Conventions or the acceptance of the Recommendations under consideration. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities.

Azerbaijan

In the absence of a reply to its previous comments, the Committee hopes that the Government will indicate soon that Recommendation No. 180 (79th Session) and the instruments adopted at the 80th and 81st Sessions of the Conference have been submitted to the National Assembly. The Committee recalls that the obligation to submit the instruments adopted by the Conference to the competent authorities applies to all Conventions and Recommendations without exception. Nevertheless, this obligation does not imply that governments must propose the ratification or application of the instruments in question.

Bahamas

With reference to its previous direct request, the Committee notes the information communicated by the Government to the effect that instruments adopted at the 81st Session of the Conference have been submitted to the competent authorities. It hopes that the Government will soon supply, concerning the instruments adopted at the 74th, 75th and 76th Sessions, which have already been submitted to the Cabinet, the information requested under Point II(a) and (b) of the questionnaire at the end of the Memorandum adopted by the Governing Body. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th, 78th, 79th and 80th Sessions of the Conference have been submitted.

It should be noted that, even if the Cabinet generally takes the initiative with regard to legislation in the Bahamas, as the Government points out in its report, it is necessary for all Conventions and Recommendations to be submitted to Parliament so that it can take legislative decisions and also so that the second objective of submission is achieved, which is to inform and mobilize public opinion. This does not imply that the Government is obliged to propose the ratification of a Convention or the acceptance of a Recommendation. The Committee therefore hopes that the Government will submit all the instruments adopted by the Conference, not only to the Cabinet, but also to Parliament, and that it will state that it has done so in its report.

Bangladesh

With reference to its previous observation, the Committee notes with interest the information supplied by the Government in its report to the effect that the instruments adopted at the 70th, 71st, 72nd, 74th, 75th, 76th, 77th (Convention No. 171 and Recommendation No. 178) and 80th Sessions of the International Labour Conference have been submitted to the competent authority. It also notes that the Government is in the process of examining the instruments adopted at the 77th (Convention No. 170 and Recommendation No. 177) and at the 78th and 79th Sessions of the Conference. The Committee hopes the Government will soon be able to indicate whether the instruments adopted at the 77th (Convention No. 170 and Recommendation No. 177) and at the 78th and 79th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would also be grateful if the Government would indicate whether the instruments adopted at the 81st Session have been submitted.

Belgium

With reference to its previous comments, the Committee notes that the Government has not supplied information regarding submission to the Parliament of the instruments adopted at the 76th, 78th, 79th and 80th Sessions of the Conference. The Committee hopes that the Government will be able to indicate in the near future that these instruments have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 81st Session of the Conference have been submitted.

Belize

The Committee notes that the Government has not replied to its previous observation. It hopes that it will indicate in the near future that the instruments adopted from the 77th to the 79th Sessions of the Conference have been submitted to the National Assembly, which is empowered to legislate by virtue of Articles 62 and 69 of the Constitution, and that it will supply in this connection the information and documents requested in the Memorandum adopted by the Governing Body. The Committee would also be grateful if the Government would indicate whether the instruments adopted at the 80th and 81st Sessions of the Conference have been submitted.

Brazil

The Committee regrets that once again this year the Government has not replied to the observations it has been making for several years in which it noted that some instruments (Conventions Nos. 128-130, 149-151, 156 and 157) would be studied shortly by tripartite commissions with a view to their submission to Congress. The Committee trusts therefore that the Government will submit to Congress the aforementioned instruments as well as those which were adopted at the 52nd, 78th, 79th, 80th and 81st Sessions of the Conference.

Bulgaria

Further to its previous observation, the Committee notes the information supplied by the Government to the effect that the instruments adopted at the 77th and 78th Sessions of the Conference have been submitted to the competent authority. It hopes that the Government will supply information on the instruments adopted at the 79th and 80th Sessions of the Conference of which the National Assembly has taken note. It hopes that the Government will indicate whether the instruments have been submitted to the competent authorities and also that it will soon supply the information requested in the Memorandum adopted by the Governing Body (Point II (a) and (b) of the questionnaire). In addition, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 81st Session have been submitted.

Cambodia

The Committee notes that the Government has not replied to its previous observation concerning the reasons for the delay in the submission to the competent authorities of the instruments adopted by the Conference. It hopes that the Government will soon supply information regarding submission to the competent authorities of the instruments adopted by the Conference.

Cameroon

The Committee notes that the Government has not replied to its previous direct requests. It hopes that the Government will indicate shortly that the instruments adopted at the 69th, 70th, 71st, 75th, 76th and 77th Sessions of the Conference have been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th, 79th, 80th and 81st Sessions of the Conference have been submitted.

Central African Republic

Further to its previous observation, the Committee notes the information supplied by the Government regarding implementation of the ratification procedure for certain instruments adopted by the Conference. The Committee recalls the distinction which must be made between submission and ratification. Submission is a general obligation which applies to Conventions and to Recommendations. It does not, however, imply an obligation on governments to propose the ratification of the Conventions or the application of the Recommendations. It trusts that the Government will indicate shortly that the instruments adopted at the 75th, 76th, 77th, 78th and 79th Sessions of the Conference have been submitted to the competent authorities and that it will supply, for these instruments and for those adopted at the 65th, 69th, 70th, 71st, 72nd and 74th Sessions which have already been submitted, the information and documents requested in the Memorandum adopted by the Governing Body (Points I, II and III of the questionnaire). Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 80th and 81st Sessions of the Conference have been submitted.

Chad

The Committee notes with regret that the Government has not replied to its previous comments. It hopes that the Government will soon indicate that the instruments adopted at the 75th, 76th, 77th, 78th, 79th and 80th Sessions of the Conference have been submitted to the competent authorities. The Committee hopes that the Government will continue its efforts to secure the submission of these instruments. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 81st Session have been submitted.

Chile

The Committee notes that the Government has not replied to its previous direct requests. It hopes that it will shortly indicate that the instruments adopted at the 75th Session of the Conference have been submitted to the Government. It also hopes that the Government will indicate whether the instruments adopted at the 78th Session, which are awaiting a decision by the political authority, have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th, 80th and 81st Sessions have been submitted.

Comoros

The Committee notes that the Government has not replied to its previous direct requests. It hopes that the Government will shortly indicate that the instruments adopted at the 79th, 80th and 81st Sessions of the Conference have been submitted to the competent authorities.

Congo

Further to its previous observation, the Committee notes the information supplied by the Government during the International Labour Conference of 1995 concerning the reasons for the delay in submitting the instruments adopted at the Conference. The Committee trusts that the Government will indicate in the near future that the instruments adopted at the 60th, 61st, 62nd, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th and 81st Sessions of the Conference and the remaining instruments adopted at the 54th, 55th, 58th, 63rd and 67th Sessions (Conventions Nos. 137, 148 and 156 and Recommendations Nos. 135 to 142, 145, 156, 163, 164 and 165) have been submitted to the competent authorities.

Costa Rica

With reference to its previous observation, the Committee notes the information supplied by the Government to the effect that the instruments adopted at the 63rd Session (Convention No. 149), the 65th Session (Convention No. 152), the 68th Session (Convention No. 158), the 71st Session (Conventions Nos. 160 and 161), the 72nd Session (Convention No. 162), the 74th Session (Conventions Nos. 163, 164, 165 and 166), the 75th Session (Convention No. 168), the 77th Session (Conventions Nos. 170 and 171), the 78th Session (Convention No. 172), the 79th Session (Convention No. 173) and the 81st Session of the Conference (Convention No. 175) have been submitted to the Legislative Assembly. It trusts that it will indicate in the near future that the instruments adopted at the 78th Session (Recommendation No. 179), the 79th Session (Recommendation No. 180), 80th and the 81st Session (Recommendation No. 182) have been submitted. The Committee recalls that the obligation to submit the instruments adopted by the Conference does not imply an obligation for governments to propose the ratification of Conventions or the application of Recommendations.

Djibouti

The Committee notes with regret that once again this year the Government has not replied to the observations it has been making since 1989. It trusts that the Government will soon indicate that the instruments adopted at the 66th, 68th, 69th, 70th, 74th, 75th, 76th and 77th Sessions of the Conference have been submitted to the competent authorities and that it will provide, both for the above instruments and for those adopted at the 71st and 72nd Sessions, the information and documents called for in the Memorandum adopted by the Governing Body. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th, 79th, 80th and 81st Sessions of the Conference have been submitted.

Ecuador

With reference to its previous comments, the Committee notes the statement by a government representative to the Conference Committee on the Application of Standards in 1995 to the effect that the current Government has the firm intention of complying with the obligation respecting submission. The Committee trusts that the Government will soon report that the instruments adopted at the 74th, 75th, 77th, 78th, 79th and 80th Sessions of the Conference have been submitted to Congress. Furthermore, the

Committee would be grateful if the Government would indicate whether the instruments adopted at the 81st Session of the Conference have also been submitted.

El Salvador

Further to its previous comments, the Committee notes the information supplied by the Government in its report to the effect that the instruments adopted at the 80th Session of the Conference have been submitted to the competent authority. The Committee hopes that the Government will indicate shortly that the instruments adopted at the 62nd, 65th, 66th, 67th, 68th, 70th, 72nd, 74th, 75th, 76th and 77th Sessions of the Conference, and the remaining instruments from the 63rd, 64th, 69th and 71st Sessions (Conventions Nos. 148, 151 and 161; Recommendations Nos. 156, 157, 158, 159, 167 and 171), have been submitted to the competent authorities and that it will provide in respect of these instruments the documents and information requested in the Memorandum adopted by the Governing Body (Points II(a), (b) and (c), and III of the questionnaire). Furthermore the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th, 79th and 81st Sessions of the Conference have been submitted.

Guatemala

The Committee notes with regret that the Government has not replied to its previous observations. It hopes that the other instruments adopted at the 75th Session of the Conference (Convention No. 168 and Recommendation No. 176), and the instrument adopted at the 76th Session, will be submitted to the competent authorities. With regard to the instruments adopted at the 74th (Maritime) Session of the Conference, the Government indicates that it did not consider it appropriate to ratify them because Guatemala does not have a commercial fleet. The Committee wishes to recall in this respect that the obligation, as set out in the Constitution of the ILO, to submit the instruments adopted by the Conference to the competent authorities, applies to all Conventions and Recommendations without exception. Nevertheless, this obligation does not imply that governments are obliged to propose the ratification or application of the instruments in question. The Committee therefore hopes that the Government will be able to indicate shortly that it has submitted the above instruments to Congress. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th, 78th, 79th, 80th and 81st Sessions have been submitted.

Guinea

Further to its previous observation, the Committee notes the statement by a government representative to the Conference Committee on the Application of Standards in 1995 providing assurances that as soon as the new legislative assembly is installed the Government will not fail to submit the pertinent instruments to it. The Committee hopes that the Government will shortly provide the information requested in the Memorandum adopted by the Governing Body (Points II(b) and III of the questionnaire) concerning the instruments adopted from the 68th to the 75th Sessions of the Conference, which have been submitted to the competent authorities. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 76th, 77th, 78th, 79th, 80th and 81st Sessions of the Conference have been submitted.

Guyana

The Committee notes that the Government has not replied to its previous observation. It hopes that it will soon indicate that the instruments adopted at the 74th, 75th, 76th, 77th, 78th, 79th and 80th Sessions of the Conference have been submitted to Parliament. The Committee also requests the Government to indicate whether the instruments adopted at the 81st Session have been submitted to Parliament.

Haiti

With reference to its previous observation, the Committee notes the statement by a Government representative to the Conference Committee on the Application of Standards in 1995 in which he indicated that his Government would fulfil the obligation of submission once the new Assembly had been installed. It also notes the information supplied by the Government to the effect that the question of submission has been transmitted to the competent authorities with a request to take the necessary measures. The Committee hopes that the Government will soon be able to indicate that the remaining instruments adopted at the 67th Session (Conventions Nos. 154 and 155, and Recommendations Nos. 163 and 164), the instruments adopted at the 68th Session, the remaining instruments adopted at the 75th Session (Convention No. 168 and Recommendations Nos. 175 and 176) and all the instruments adopted at the 76th, 77th, 78th, 79th, 80th and 81st Sessions of the Conference have been submitted to the competent authorities.

Honduras

Further to its previous observation, the Committee notes the information provided by the Government in its report. It hopes that the Government will shortly provide, in respect of the instruments adopted at the 69th, 71st and 72nd Sessions of the Conference, which have been submitted, the information requested in the Memorandum adopted by the Governing Body (Points II(b) and (c) and III of the questionnaire), together with a copy of the document whereby the instruments adopted at the 75th Session were submitted. The Committee hopes that the Government will also provide a copy of the letter whereby the instruments adopted at the 67th Session were submitted to the National Assembly by the President of the Republic and a copy of the letter whereby the Ministry of Foreign Affairs submitted to the above-mentioned Assembly the instrument adopted at the 70th Session, and that it will state whether the remaining instruments from the 74th Session and the instruments adopted at the 76th, 77th and 78th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th, 80th and 81st Sessions of the Conference have been submitted.

Hungary

Further to its previous observation, the Committee notes the information supplied by the Government concerning the reasons for the delay in the submission of the instruments adopted by the Conference. It hopes that the Government will soon indicate that the instruments adopted at the 76th, 77th, 78th, 79th and 80th Sessions of the Conference have been submitted to Parliament. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 81st Session of the Conference have been submitted.

India

The Committee notes that the Government has not replied to its previous direct requests. It hopes that it will soon indicate that the instruments adopted at the 78th, 79th, 80th and 81st Sessions of the Conference have been submitted to the competent authorities.

Italy

With reference to its previous observation, the Committee notes with interest the information provided by the Government to the effect that the instruments adopted at the 78th, 79th, 80th and 81st Sessions of the Conference have been submitted to the competent authority.

Jamaica

The Committee notes that the Government has not replied to its previous observation. It trusts that the Government will soon indicate that the instruments adopted at the 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th and 80th Sessions of the Conference have been submitted to Parliament. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 81st Session of the Conference have been submitted.

In its previous comments, the Committee recalled the statement by a government representative to the Conference Committee on the Application of Standards in 1984 to the effect that Convention No. 132, Recommendation No. 136 and the instruments adopted from the 61st to the 69th Sessions of the Conference had been submitted to Parliament. It expressed the hope that the Government would provide the other information and documents called for in the Memorandum adopted by the Governing Body (Points I and II of the questionnaire) (except as concerns Conventions Nos. 149, and 150, which have been ratified, and the corresponding Recommendations Nos. 157 and 158) and that it would supply information on the proposals made and decisions taken with regard to the 45 instruments submitted to Parliament by a communication of the Minister of Labour and Employment, dated 22 November 1976. The Committee once again hopes that the Government will soon provide the information and documents in question.

Kenya

With reference to its previous comments, the Committee notes with interest the information supplied by the Government to the effect that the instruments adopted from the 65th to the 80th Session of the Conference have been submitted to the competent authority. It would be grateful if the Government would indicate whether the instruments adopted at the 81st Session of the Conference have been submitted.

Lao People's Democratic Republic

With reference to its previous comments, the Committee notes with interest the information provided by the Government to the effect that the instruments adopted from the 48th to the 65th and at the 80th and 81st Sessions of the Conference have been submitted to the competent authority.

Lebanon

With reference to its previous comments, the Committee notes the information communicated by the Government concerning the reasons for the delay in the submission of the instruments adopted by the Conference. The Committee hopes that the Government will indicate shortly that the remaining instruments adopted from the 31st to the 50th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th, 79th, 80th and 81st Sessions of the Conference have been submitted.

Lesotho

The Committee notes with regret that the Government has not replied to its previous observations. It trusts that the Government will shortly indicate that Convention No. 157, adopted at the 68th Session of the Conference, as well as the instruments adopted at the 69th, 70th, 74th, 75th, 76th, 77th, 78th, 79th and 80th Sessions, have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 81st Session of the Conference have been submitted. It wishes to point out in this respect that the obligation to submit the instruments adopted by the Conference to the competent authorities, under the terms of the Constitution of the ILO, applies to all Conventions and Recommendations without exception.

Libyan Arab Jamahiriya

With reference to its previous observation, the Committee notes the statement by a government representative to the Conference Committee on the Application of Standards in 1995 concerning the difficulties preventing the submission to the competent authorities of the instruments adopted by the Conference. The Committee hopes that the Government will shortly be able to indicate that the instruments adopted at the 74th, 75th, 76th, 77th, 78th, 79th and 80th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 81st Session of the Conference have been submitted.

Madagascar

With reference to its previous observation, the Committee notes the statement by a government representative to the Conference Committee on the Application of Standards in 1995 to the effect that the Government undertook to submit the instruments adopted by the Conference to the National Assembly. The Committee trusts that the Government will soon provide information with regard to the proposals made when submitting the instruments adopted at the 69th Session of the Conference, and that it will indicate that the instruments adopted at the 55th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th and 80th Sessions have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 81st Session of the Conference have been submitted.

Malawi

With reference to its previous comments, the Committee notes with interest the information supplied by the Government to the effect that instruments adopted at the 55th

(Recommendations Nos. 137, 138, 139, 140, 141 and 142); 56th (Recommendation No. 144), 58th (Recommendations Nos. 145 and 146); 59th (Recommendations Nos. 147 and 148); 60th (Convention No. 143 and Recommendations Nos. 149, 150 and 151); 62nd (Convention No. 145 and Recommendations Nos. 153, 154 and 155); 63rd (Recommendation No. 156); 64th (Recommendations Nos. 158 and 159); 65th (Recommendations Nos. 160 and 161); 66th; 67th (Recommendations Nos. 163, 164 and 165); 69th (Recommendation No. 167); 70th (Recommendation No. 169); 71st (Recommendations Nos. 170 and 171); 72nd (Recommendation No. 172); 74th (Recommendations Nos. 173 and 174); 75th (Recommendations Nos. 175 and 176); 76th, 77th, 78th, 79th, 80th and 81st Sessions of the Conference have been submitted to the competent authorities.

Mauritania

The Committee notes that the Government has not replied to its previous observation. It hopes that it will soon indicate that the instruments adopted at the 78th, 79th, 80th and 81st Sessions of the Conference have been submitted to the competent authorities.

Mauritius

The Committee notes that the Government has not replied to its previous observation. It hopes that it will shortly be able to announce that the remaining instruments adopted at the 60th Session (Conventions Nos. 141 and 142 and Recommendations Nos. 149 and 150), the 65th Session (Convention No. 152 and Recommendation No. 160) and the 69th Session (Recommendation No. 167), as well as the instruments adopted at the 66th, 70th, 78th, 79th, 80th and 81st Sessions of the Conference, have been submitted to the National Assembly.

Mongolia

The Committee notes with regret that once again this year the Government has not replied to its previous observations. It hopes that the Government will soon be in a position to provide information on the proposals and decisions taken with regard to the instruments adopted at the 68th, 69th, 70th and 71st Sessions of the Conference, which have already been submitted to the competent authorities. It would also be grateful if the Government would indicate whether the instruments adopted at the 78th, 79th, 80th and 81st Sessions of the Conference have been submitted.

Morocco

The Committee notes that the Government has not replied to its previous direct requests. The Committee hopes that the Government will shortly supply, with regard to the instruments adopted at the 74th, 75th, 76th and 79th Sessions of the Conference, which have been submitted to the competent authorities, the information (date of submission) requested under Point II (a) of the questionnaire at the end of the Memorandum adopted by the Governing Body. It would be grateful if the Government would indicate whether the instruments adopted at the 77th, 78th, 80th and 81st Sessions of the Conference have been submitted to the competent authorities.

Mozambique

Further to its previous observation, the Committee notes the statement by a government representative to the Conference Committee on the Application of Standards in 1995 concerning the delay in the submission of the instruments adopted by the Conference and his statement that the Government reaffirms its commitment to fulfil the obligations respecting the submission of the instruments adopted by the Conference. The Committee hopes that the Government will soon indicate that Recommendations Nos. 177 and 178 (77th Session) have been submitted and that the instruments adopted at the 69th, 70th, 71st and 72nd Sessions of the Conference, which have already been submitted to the Council of Ministers, have been submitted to the Assembly. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th, 79th, 80th and 81st Sessions of the Conference have been submitted.

Nepal

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will soon provide the information requested in the Memorandum adopted by the Governing Body, particularly under Point II(b) of the questionnaire, on the submission to Parliament of the remaining instruments from the 54th and 67th Sessions of the Conference (Conventions Nos. 132 and 158, and Recommendations Nos. 135 and 136), as well as the instruments adopted at the 53rd Session, from the 55th to the 61st Sessions and at the 66th Session, and those adopted at the 75th, 76th, 77th, 78th, 79th and 80th Sessions. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 81st Session of the Conference have been submitted to the competent authorities.

Pakistan

With reference to its previous observation, the Committee notes with interest the information supplied by the Government, according to which the instruments adopted at the 75th to 80th Sessions of the Conference have been submitted to the competent authorities. It also notes that the instruments adopted at the 81st Session of the Conference have been sent to the appropriate government bodies and to the workers' and employers' organizations concerned for ascertaining their views and the comments received from them will be incorporated in a summary to be submitted to the competent authorities shortly.

The Committee hopes that the Government will be able to indicate in the near future that the instruments adopted at the 81st Session of the Conference have been submitted.

Papua New Guinea

In its previous comments, the Committee notes that the instruments adopted from the 70th to the 77th Sessions of the Conference had been submitted to the National Executive Council (the highest Government Authority) which had approved them, and that this submission for adoption by the National Parliament was only a formality. The Committee notes the statement by a Government representative to the Conference Committee on the Application of Standards in 1995 concerning the submission. The Committee hopes that the Government will be able to indicate shortly that the instruments adopted from the 66th to the 77th Sessions of the Conference, as well as those adopted at the 78th, 79th, 80th and 81st Sessions, have been submitted to the competent authorities. It recalls that the obligation to submit does not imply that

Governments have to propose the ratification of the conventions or the acceptance of the recommendations in question. Governments have full freedom as to the nature of the proposals they make concerning the conventions and recommendations which are submitted to the competent authorities.

Paraguay

The Committee notes that the Government has not replied to its previous observation. The Committee hopes that the Government will be in a position to indicate in the near future whether the instruments adopted at the 68th and 69th Sessions (Recommendation No. 167) and the 70th, 71st, 72nd 74th, 75th, 76th, 77th and 78th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 79th, 80th and 81st Sessions have been submitted to the competent authorities. The Committee recalls that the obligation to submit the instruments adopted by the Conference does not imply an obligation to propose the ratification of Conventions or the application of Recommendations.

Saint Lucia

The Committee notes with regret that once again this year the Government has not replied to the observations it has been making since 1990. It trusts that the Government will shortly indicate that the instruments adopted at the 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th and 76th Sessions of the Conference have been submitted to the competent authorities and that it will supply the information and documents requested in this respect in the Memorandum adopted by the Governing Body, particularly as regards the nature of the competent authority and the Government's proposals or comments on the action to be taken concerning the instruments in question (Points I(a) and II(b) of the questionnaire). Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 77th, 78th, 79th, 80th and 81st Sessions have been submitted. It recalls in this connection that the authorities to which these instruments must be submitted are those empowered to legislate, and that the obligation to submit the instruments does not imply that governments must propose the ratification or application of the said instruments.

Sao Tome and Principe

The Committee notes that the Government has not replied to its previous observation. It hopes that it will shortly indicate that the instruments adopted at the 77th, 78th, 79th, 80th and 81st Sessions of the Conference have been submitted to the competent authorities.

Seychelles

With reference to its previous observations, the Committee notes the information supplied by the Government to the effect that the procedure for submission of the Conventions and Recommendations to the competent authorities has already started and will be completed soon. The Committee therefore expresses the hope that the Government will shortly indicate that the instruments adopted at the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th and 81st Sessions of the Conference have been submitted to the competent authorities, in accordance with article 19, paragraphs 5(b) and 6(b), of the ILO Constitution. It recalls in this respect that the authorities to which these instruments must be submitted are those empowered to legislate, in this instance, the People's Assembly. It recalls that the obligation to submit does not imply that Governments must propose the ratification of the Conventions or the acceptance of the Recommendations concerned. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities; they may also request technical assistance from the ILO in areas where they encounter difficulties.

Sierra Leone

With reference to its previous observation, the Committee notes the information supplied by the Government concerning the reasons for the delay in the submission to the competent authorities of the instruments adopted at the 81st Session of the Conference. It hopes that the Government will be in a position in the near future to indicate that the instruments adopted at the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th and 81st Sessions of the Conference, and Convention No. 146 and Recommendation No. 154, which were adopted at the 62nd Session, have been submitted to the competent authorities.

Solomon Islands

The Committee notes with regret that once again this year the Government has not replied to its previous observations, which it has been making since 1992. It hopes that the Government will indicate rapidly whether any proposals have been made concerning the instruments adopted at the 74th Session of the Conference, which have already been submitted to the competent authorities, and that it will specify their content, as required by the Memorandum adopted by the Governing Body (Point II(c) of the questionnaire). The Committee also hopes that the Government will soon be able to indicate that the instruments adopted at the 70th, 71st, 72nd, 75th, 76th, 77th, 78th, 79th and 80th Sessions have been submitted. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 81st Session of the Conference have been submitted.

Suriname

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will shortly indicate that the instruments adopted at the 65th (Recommendations Nos. 160 and 161), 67th (Convention No. 154 and Recommendations Nos. 163, 164 and 165), 68th (Convention no. 158 and Recommendation No. 166), 71st (Convention No. 160 and Recommendation No. 170), 72nd, 79th, 80th and 81st Sessions of the Conference have been submitted to the National Assembly. The Committee recalls in this connection that the authorities to which these instruments are to be submitted are the authorities empowered to legislate.

Swaziland

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will be in a position to indicate in the near future that the instruments adopted at the 78th, 79th and 80th Sessions of the Conference, which are currently being studied by the Labour Advisory Board, have been submitted to the competent authorities. It again expresses the hope that the Government will soon provide the information requested in the memorandum approved by the Governing Body, particularly under Points I and II(a) of the questionnaire, concerning the instruments adopted at the 68th, 69th, 71st and 72nd Sessions, which have already been submitted. Furthermore, it recalls in this connection that these instruments must be submitted to the authorities empowered to legislate. The Committee would be grateful if the Government would indicate whether the instruments adopted at the 81st Session of the Conference have been submitted to the competent authorities.

Syrian Arab Republic

With reference to its previous observation, the Committee notes the information supplied by the Government in its report to the effect that it has requested the Ministry of Health, the Public Social Insurance Institution and the Ministry of Industry to indicate the effect given to the study carried out on Conventions Nos. 170 and 171 (77th Session). It also notes, according to the Government's report, that the instruments adopted at the 80th Session have been submitted to the Council of Ministers. It hopes that the Government will soon be able to indicate that the instruments adopted at the 66th, 70th, 77th, 78th, 79th and 80th Sessions and the remaining instruments adopted at the 69th (Recommendations Nos. 167 and 168) Sessions of the Conference have been submitted to Parliament.

The Committee recalls that submission is a general obligation applying to Conventions as well as Recommendations. It does not imply that governments must propose the ratification of the Conventions or the acceptance of the Recommendations concerned. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities. It hopes that the Government will indicate soon whether the above-mentioned instruments have been submitted and will supply in this respect the information requested in the Memorandum adopted by the Governing Body (Points I and II of the questionnaire at the end of the Memorandum). The Committee would be grateful if the Government would indicate whether the instruments adopted at the 81st Session of the Conference have been submitted.

United Republic of Tanzania

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will soon be in a position to announce that it has submitted to the National Assembly the instruments adopted at the 72nd, 74th, 75th and 76th Sessions of the Conference, and the instruments adopted at the 66th, 67th and 68th Sessions, which have been transmitted to the Ministry of Labour and Development. Finally, it hopes that the Government will indicate the date on which the instruments adopted from the 54th to the 64th Sessions, and at the 69th, 70th and 71st Sessions, were submitted to the Assembly. It would be grateful if the Government would indicate whether the instruments adopted at the 77th, 78th, 79th, 80th and 81st Sessions of the Conference have been submitted to the competent authorities.

Thailand

The Committee notes that the Government has not replied to its previous observation. It hopes that it will indicate in the near future that the instruments adopted at the 74th, 75th, 76th, 77th, 78th, 79th and 80th Sessions of the Conference, which have already been submitted to the Cabinet, have been submitted to Parliament. The Committee also hopes that the instruments adopted at the 72nd and 81st Sessions will also be submitted. The Committee would be grateful if the Government would supply in the near future a copy of the document by which these instruments were submitted to Parliament.

Trinidad and Tobago

With reference to its previous comments, the Committee notes the explanations supplied by a Government representative to the Conference Committee in 1995 to the effect that there has been progress in submission to the competent authorities of the instruments adopted at the 81st Session of the Conference; they have been submitted to the Government Cabinet which decided to submit them to a tripartite commission for examination with a view to ratification. The Committee recalls that submission is a general obligation applying to Conventions as well as Recommendations. It does not imply that governments are under an obligation to ratify the Conventions or accept the Recommendations in question. Governments have complete freedom as to the nature of the proposals made when submitting Conventions and Recommendations to the competent authorities. The Committee hopes that the Government will indicate shortly that the instruments adopted from the 74th to the 81st Sessions of the Conference have been submitted to the competent authorities.

Uruguay

The Committee notes the communication from the coordinators of the Inter-Union Assembly of Workers — National Convention of Workers (PIT-CNT) received at the International Labour Office on 7 June 1995 which alleges that the Government of Uruguay violated article 19 of the Constitution of the International Labour Organization under which it is accepted practice for the Legislative and Executive Authorities that international labour Conventions can be discussed and approved by Parliament only when they are accompanied by a favourable opinion from the Executive. The PIT-CNT alleges that when the Government presents a Convention without an opinion or with an unfavourable opinion, Parliament is prevented from considering it. According to the PIT-CNT, this practice is based on the fact that Conventions require the Government's private initiative in accordance with sections 85(7) and 168(20) of the Constitution of Uruguay. The CNT attaches to its communication a document entitled "Participation of the Executive Authorities and the Legislative Authorities in the process of ratifying international labour Conventions".

The Committee also notes the Government's reply, dated 11 October 1995, and the attached document "Reply of the Government of Uruguay on participation of the Executive Authorities and the Legislative Authorities in the process of ratifying international labour Conventions".

The Committee recalls that article 19 of the ILO Constitution lays down the obligation to place before the competent authorities all instruments adopted by the Conference without exception and without distinction between Conventions and Recommendations. Since this article is clearly aimed at obtaining a decision from the competent authorities, the submission of Conventions and Recommendations to the authority should always be accompanied or followed by a statement or proposals setting out the Government's views as to the action to be taken on the instruments. Furthermore, one of the essential points to bear in mind is that the legislature should have an opportunity to debate the measures which might be taken to give effect to these instruments, or propose that no action should be taken or that a decision should be postponed. The Committee emphasizes that the obligation of submission to the competent authorities does not imply that governments must propose ratification or application of the instruments in question.

The Committee requests the Government to supply information on the procedure aimed at ensuring that the competent authorities have the opportunity to institute a debate on whether they wish to take measures to give effect to the instruments adopted by the Conference.

With reference to its previous direct request, the Committee notes the information provided by the Government in its report to the effect that the remaining instruments adopted at the 77th Session (Convention No. 170 and Recommendation No. 177) have been submitted to the General Assembly. The Committee hopes that the Government will indicate shortly that the instruments adopted at the 80th and 81st Sessions of the Conference have been submitted to the competent authorities.

Venezuela

The Committee note with regret that once again this year the Government has not answered its previous observations. It hopes that it will shortly indicate that the instruments adopted at the 74th, 75th, 76th, 77th, 78th, 79th and 80th Sessions of the Conference have been submitted to the competent authorities. The Committee hopes that the Government will shortly supply, in respect of the instruments adopted at the 70th and 72nd Sessions of the Conference, the information and documents requested in the memorandum adopted by the Governing Body, and that it will state whether Convention No. 161 and Recommendation No. 171 (71st Session) have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 81st Session of the Conference have been submitted.

Yemen

With reference to its previous observations, the Committee notes the information supplied by the Government in its report concerning the reasons for the delay in the submission of the instruments adopted by the Conference. It trusts that it will indicate shortly that the instruments adopted at the 74th, 76th, 77th, 78th, 79th and 80th Sessions of the Conference have been submitted to the competent authorities. The Committee would also be grateful if the Government would indicate whether the instruments adopted at the 81st Session have been submitted.

Zaire

The Committee notes with regret that the Government has not replied to its previous observations. In its previous comments, the Committee noted the statement made by a government representative at the Conference Committee on the Application on Standards in 1992, to the effect that the procedure for the submission to the competent authorities of the instruments adopted from the 70th to 77th Sessions of the Conference has begun, that the instruments adopted up to the 69th Session have been submitted only to the President of the Republic, and that when the National Conference has completed its work, the instruments adopted will also be submitted to both the President of the Republic and the National Assembly. The Committee also noted the discussion that followed this statement, and the conclusions adopted by the Conference Committee.

The Committee hopes that the Government will shortly be able to state that the instruments adopted at the 70th, 71st, 72nd, 74th, 75th 76th, 77th, 78th, 79th and 80th Sessions of the Conference have been submitted to the competent authorities. It also hopes that the Government will shortly be able to state that the instruments adopted at the 62nd and from the 66th to 69th Sessions of the Conference, which have already been submitted to the President of the Republic, have also been submitted to the National

Assembly. Furthermore, the Committee asks the Government to indicate whether the instruments adopted at the 81st Session of the Conference have been submitted.

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In addition, requests regarding certain points are being addressed directly to the following States: *Angola, Argentina, Armenia, Austria, Bahrain, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Burkina Faso, Burundi, Canada, China, Colombia, Croatia, Cuba, Czech Republic, Dominica, Dominican Republic, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Grenada, Guinea-Bissau, Iraq, Ireland, Israel, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Latvia, Liberia, Lithuania, Malaysia, Mali, Malta, Mexico, Republic of Moldova, Myanmar, Namibia, Netherlands, Niger, Nigeria, Oman, Peru, Philippines, Portugal, Qatar, Rwanda, Senegal, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkmenistan, Uganda, United Kingdom, Uzbekistan, Viet Nam, Zambia, Zimbabwe.*

Appendix I. Information supplied by governments with regard to the obligation to submit Conventions and Recommendations to the competent authorities

(31st to 81st Sessions of the International Labour Conference, 1948-94)[1]

Note. The number of the Convention or Recommendation is given in parentheses, preceded by the letter "C" or "R" as the case may be, when only some of the texts adopted at any one session have been submitted. Ratified Conventions are considered as having been submitted.

Account has been taken of the date of admission or readmission of States Members to the ILO for determining the sessions of the Conference whose texts are taken into consideration.

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Afghanistan	31 to 70	71, 72, 74, 75, 76, 77, 78, 79, 80 and 81
Albania	-	78, 79, 80 and 81
Algeria	47 to 72	74, 75, 76, 77, 78, 79, 80 and 81
Angola	61 to 77	78, 79, 80 and 81
Antigua and Barbuda	68	69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80 and 81
Argentina	31 to 79	80 and 81
Armenia	-	80 and 81
Australia	31 to 81	-
Austria	31 to 79	80 and 81
Azerbaijan	79 (C 173)	79 (R 180), 80 and 81
Bahamas	61 to 76 and 81	77, 78, 79 and 80
Bahrain	63 to 76	77, 78, 79, 80 and 81
Bangladesh	58 to 76, 77 (C 171, R 180) and 80	77 (C 170, R 177), 78, 79 and 81
Barbados	51 to 81	-
Belarus	77 to 81	-

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[1] The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972) and 73rd Session (June 1987).

State	**Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments**	**Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)**
Belgium	31 to 75 and 77	76, 78, 79, 80 and 81
Belize	68 to 76	77, 78, 79, 80 and 81
Benin	45 to 77	78, 79, 80 and 81
Bolivia	31 to 79	80 and 81
Bosnia and Herzegovina	-	80 and 81
Botswana	64 to 79	80 and 81
Brazil	31 to 50, 51 (C 127, R 128, 129, 130, 131), 53 (R 133, 134), 54 to 62, 63 (C 148, R 156, 157), 64 (R 158, 159), 65, 66, 67 (C 154, 155, R 163, 164, 165), 68 (C 158, R 166), 69 to 77	51 (C 128), 52, 53 (C 129, 130), 63 (C 149), 64 (C 150, 151), 67 (C 156), 68 (C 157), 78, 79, 80 and 81
Bulgaria	31 to 78	79, 80 and 81
Burkina Faso	45 to 76	77, 78, 79, 80 and 81
Burundi	47 to 80	81
Cambodia	53, 54 and 56	55, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80 and 81
Cameroon	44 to 68, 72 and 74	69, 70, 71, 75, 76, 77, 78, 79, 80 and 81
Canada	31 to 80	81
Cape Verde	65 to 81	-
Central African Republic	45 to 74	75, 76, 77, 78, 79, 80 and 81
Chad	45 to 74	75, 76, 77, 78, 79, 80 and 81
Chile	31 to 74, 76 and 77	75, 78, 79, 80 and 81
China	69 to 80	81
Colombia	31 to 70, 71 (C 160, R 170, 171), 72 (R 172), 74, 75 (C 167, R 175, 176), 76 to 78, 79 (R 180), 80 and 81 (C 175)	71 (C 161), 72 (C 162), 75 (C 168), 79 (C 173), 81 (R 182)
Comoros	65 to 78	79, 80 and 81

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Congo	45 to 53, 54 (C 131, 132), 55 (C 133, 134), 56, 58 (C 138; R 146), 59, 63 (C 149; R 157), 64 to 66 and 67 (C 154, 155)	54 (R 135, 136), 55 (R 137, 138, 139, 140, 141, 142), 58 (C 137, R 145), 60, 61, 62, 63 (C 148, R 156), 67 (C 156; R 163, 164, 165), 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80 and 81
Costa Rica	31 to 74, 75 (C 168, R 175, 176), 76, 77, 78 (C 172), 79 (C 173) and 81 (C 175)	75 (C 167), 78 (R 179), 79 (R 180), 80 and 81 (R 182)
Côte d'Ivoire	45 to 81	-
Croatia	-	80 and 81
Cuba	31 to 80	81
Cyprus	45 to 77, 80 and 81	78 and 79
Czech Republic	80	81
Denmark	31 to 81	-
Djibouti	64, 65, 67, 71 and 72	66, 68, 69, 70, 74, 75, 76, 77, 78, 79, 80 and 81
Dominica	68 to 79	80 and 81
Dominican Republic	31 to 78	79, 80 and 81
Ecuador	31 to 72 and 76	74, 75, 77, 78, 79, 80 and 81
Egypt	31 to 81	-
El Salvador	31 to 61, 63 (C 149), 64 (C 150), 69 (C 159, R 168), 71 (C160, R 170) and 80	62, 63 (C 148, R 156, 157), 64 (C 151, R 158, 159), 65, 66, 67, 68, 69 (R 167), 70, 71 (C 161, R 171), 72, 74, 75, 76, 77, 78, 79 and 81
Equatorial Guinea	67 to 79	80 and 81
Eritrea	80	81
Estonia	80	79 and 81
Ethiopia	31 to 81	-
Fiji	59 to 80	81
Finland	31 to 80	81

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
France	31 to 80	81
Gabon	45 to 72, 75 to 81	74
Georgia	-	80 and 81
Germany	34 to 70, 71, 72, 74, 75 (C 167; R 175) and 76	75 (C 168; R 176), 77, 78, 79, 80 and 81
Ghana	40 to 79	80 and 81
Greece	31 to 80	81
Grenada	66 to 80	81
Guatemala	31 to 70, 71 (C 160, 161, R 171), 72 and 75 (C 167; R 175)	71 (R 170), 74, 75 (C 168; R 176), 76, 77, 78, 79, 80 and 81
Guinea	43 to 75	76, 77, 78, 79, 80 and 81
Guinea-Bissau	63 to 78	79, 80 and 81
Guyana	50 to 72	74, 75, 76, 77, 78, 79, 80 and 81
Haiti	31 to 66, 67 (C. 156, R 165), 69, 70 to 74 and 75 (C 167)	67 (C 154, 155, R 163, 164), 68, 75 (C 168; R 175, 176), 76, 77, 78, 79, 80 and 81
Honduras	39 to 66, 68, 69, 71, 72, 74 (C 164, 165, 166; R 174), 75 (C 167) and 76	67, 70, 74 (C 163, R 173), 75 (C 168; R 175, 176), 77, 78, 79, 80 and 81
Hungary	31 to 75	76, 77, 78, 79, 80 and 81
Iceland	31 to 81	-
India	31 to 72, 75 to 77	74, 78, 79, 80 and 81
Indonesia	33 to 81	-
Islamic Republic of Iran	31 to 81	-
Iraq	31 to 80	81
Ireland	31 to 71, 74, 75 and 77	72, 76, 78, 79, 80 and 81
Israel	32 to 80	81
Italy	31 to 81	-
Jamaica	47 to 69	70, 71, 72, 74, 75, 76, 77, 78, 79, 80 and 81

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Japan	35 to 81	-
Jordan	39 to 78	79, 80 and 81
Kazakstan	-	80 and 81
Kenya	48 to 80	81
Republic of Korea	79 to 81	-
Kuwait	45 to 76, 78, 79, 80 (C 174) and 81	77 and 80 (R 181)
Kyrgyzstan	-	79, 80 and 81
Lao People's Democratic Republic	48 to 81	-
Latvia	80	79 and 81
Lebanon	31 (C 88, 89, 90, R 83), 32 (C 95, 98, R 85), 34 (C 100, R 90), 35 (C 102, 103), 40 (C 105, 106, R 103), 42 (C 111, R 111), 44 (C 115), 45 (C 116), 46 (C 117, 118), 47 (C 119), 48 (C 120, 121, 122, R 120, 122), 49 (C 123, 124), 50 (C 125, 126) and 51 to 77	31 (C 87), 32 (C 91, 92, 93, 94, 96, 97, R 84, 86, 87), 33, 34 (C 99, R 89, 91, 92), 35 (C 101, R 93, 94, 95), 36, 37, 38, 39, 40 (C 107, R 104), 41, 42 (C 110, R 110), 43, 44 (R 113, 114), 45 (R 115), 46 (R 116, 117), 47 (R 118, 119), 48 (R 121), 49 (R 123, 124, 125), 50 (R 126, 127), 78, 79, 80 and 81
Lesotho	66, 67, 68 (C 158, R 166), 71 and 72	68 (C 157), 69, 70, 74, 75, 76, 77, 78, 79, 80 and 81
Liberia	31 to 75	76, 77, 78, 79, 80 and 81
Libyan Arab Jamahiriya	35 to 72	74, 75, 76, 77, 78, 79, 80 and 81
Lithuania	-	79, 80 and 81
Luxembourg	31 to 81	-
Madagascar	45 to 54, 56 to 70	55, 71, 72, 74, 75, 76, 77, 78, 79, 80 and 81
Malawi	49 to 81	-
Malaysia	41 to 76	77, 78, 79, 80 and 81

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Mali	44 to 78	79, 80 and 81
Malta	49 to 80	-
Mauritania	45 to 77	78, 79, 80 and 81
Mauritius	53 to 59, 60 (C 143, R 151), 61, 62, 63 (C 148; R 156), 64, 65 (C 153, R 161), 67, 68, 69 (C 159, R 168), 71 and 72 to 77	60 (C 141, 142, R 149, 150), 63 (C 149; R 157), 65 (C 152, R 160), 66, 69 (R 167), 70, 78, 79, 80 and 81
Mexico	31 to 80	81
Republic of Moldova	79 and 80	81
Mongolia	53 to 77	78, 79, 80 and 81
Morocco	39 to 76 and 79	77, 78, 80 and 81
Mozambique	61 to 76 and 77 (C 170, 171)	77 (R 177, 178), 78, 79, 80 and 81
Myanmar	31 to 80	81
Namibia	78 to 80	81
Nepal	51 to 78	79, 80 and 81
Netherlands	31 to 80	81
New Zealand	31 to 81	-
Nicaragua	40 to 81	-
Niger	45 to 80	81
Nigeria	45 to 79	80 and 81
Norway	31 to 81	-
Oman		81
Pakistan	31 to 80	81
Panama	31 to 81	-
Papua New Guinea	61 to 65	66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80 and 81
Paraguay	40 to 67 and 69 (C 159; R 168)	68, 69 (R 167), 70, 71, 72, 74, 75, 76, 77, 78, 79, 80 and 81

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Peru	31 to 80	81
Philippines	31 to 81	-
Poland	31 to 81	-
Portugal	31 to 79	80 and 81
Qatar	58 to 80	81
Romania	39 to 81	-
Russian Federation	37 to 81	-
Rwanda	47 to 79	80 and 81
Saint Lucia	-	66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80 and 81
San Marino	69 to 81	-
Sao Tome and Principe	68 to 76	77, 78, 79, 80 and 81
Saudi Arabia	61 to 81	-
Senegal	44 to 78	79, 80 and 81
Seychelles	-	63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80 and 81
Sierra Leone	45 to 62 (C 145, 147, R 153, 155)	62 (C 146, R 154), 63, 64, 65, 66, 67, 68, 69, 70, 71, 72 74, 75, 76, 77, 78, 79, 80 and 81
Singapore	50 to 81	-
Slovakia	79 to 81	-
Slovenia	79 and 80	81
Solomon Islands	74	70, 71, 72, 75, 76, 77, 78, 79, 80 and 81
Somalia	45 to 75	76, 77, 78, 79, 80 and 81
South Africa	-	81
Spain	39 to 62, 63 (C 148; R 156), 64 to 74, 75 (C 167; R 175) and 76 to 78	63 (C 149, R 157), 75 (C 168; R 176), 79, 80 and 81
Sri Lanka	31 to 78	79, 80 and 81

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Sudan	39 to 80	81
Suriname	61 to 64, 65 (C 152, 153), 66, 67 (C 155, 156), 68 (C 157), 69, 70, 71 (C 161, R 171) and 74 to 78	65 (R 160, 161), 67 (C 154; R 163, 164, 165), 68 (C 158; R 166), 71 (C 160; R 170), 72, 79, 80 and 81
Swaziland	60 to 76 and 77	78, 79, 80 and 81
Sweden	31 to 80	81
Switzerland	31 to 79	80 and 81
Syrian Arab Republic	31 to 65, 67, 68, 69 (C 159), 71, 72, 74, 75 and 76	66, 69 (R 167, 168), 70, 77, 78, 79, 80 and 81
Tajikistan	-	81
United Republic of Tanzania	46 to 65, 69 to 71	66, 67, 68, 72, 74, 75, 76, 77, 78, 79, 80 and 81
Thailand	31 to 71	72, 74, 75, 76, 77, 78, 79, 80 and 81
The former Yugoslav Republic of Macedonia	-	80 and 81
Togo	44 to 81	-
Trinidad andTobago	47 to 72	74, 75, 76, 77, 78, 79, 80 and 81
Tunisia	39 to 81	-
Turkey	31 to 81	-
Turkmenistan	-	81
Uganda	47 to 78	79, 80 and 81
Ukraine	37 to 81	-
United Arab Emirates	58 to 81	-
United Kingdom	31 to 80	81
United States	31 to 81	-
Uruguay	31 to 79	80 and 81
Uzbekistan	-	80 and 81
Venezuela	31 to 70, 71 (C 160; R 170) and 72	71 (C 161; R 171), 74, 75, 76, 77, 78, 79, 80 and 81

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Viet Nam	80	81
Yemen	49 to 72 and 75	74, 76, 77, 78, 79, 80 and 81
Yugoslavia	31 to 75	76, 77, 78, 79, 80 and 81
Zaire	45 to 69	70, 71, 72, 74, 75, 76, 77, 78, 79, 80 and 81
Zambia	49 to 79	80 and 81
Zimbabwe	66 to 79	80 and 81

Appendix II. Overall position of member States as at 8 December 1995

Sessions at which decisions were adopted	Number of States in which, according to information supplied by the Government			Number of States which were Members of the Organization at the time of the session
	all the texts have been submitted	some of these texts have been submitted	none of these texts have been submitted (including cases in which no information has been supplied by the Government)	
31 (June 1948)	58	2	-	60
32 (June 1949)	59	2	-	61
33 (June 1950)	61	-*	2	63
34 (June 1951)	62	2	-	64
35 (June 1952)	64	2	-	66
36 (June 1953)	64	-	2	66
37 (June 1954)	67	-*	2	69
38 (June 1955)	67	1	1	69
39 (June 1956)	74	-	2	76
40 (June 1957)	75	2	-	77
41 (April/May 1958)	77	1	1	79
42 (June 1958)	78	1	-	79
43 (June 1959)	78	1	1	80
44 (June 1960)	81	1	1	83
45 (June 1961)	99	2	-	101
46 (June 1962)	101	1	-	102
47 (June 1963)	107	1	-	108
48 (June/July 1964)	109	1	-	110
49 (June 1965)	113	1	-	114
50 (June 1966)	112	2	1	115
51 (June 1967)	117	-	-	117

Sessions at which decisions were adopted	Number of States in which, according to information supplied by the Government,			Number of States which were Members of the Organization at the time of the session
	all the texts have been submitted	some of these texts have been submitted	none of these texts have been submitted (including cases in which no information has been supplied by the Government)	
52 (June 1968)	116	-*	2	118
53 (June 1969)	120	1	-	121
54 (June 1970)	118	1	2	121
55 (October 1970)	118	1	2	121
56 (June 1971)	121	-	-	121
58 (June 1973)	120	2	1	123
59 (June 1974)	123	1	1	125
60 (June 1975)	123	2	1	126
61 (June 1976)	124	-	7	131
62 (October 1976)	125	1	6	132
63 (June 1977)	114	5	16	135
64 (June 1978)	127	4	5	136
65 (June 1979)	127	2	10	139
66 (June 1980)	122	-*	22	144
67 (June 1981)	127	6	12	145
68 (June 1982)	126	4	20	150
69 (June 1983)	130	3	17	150
70 (June 1984)	124	-*	26	150
71 (June 1985)	125	6	19	150
72 (June 1986)	126	1	23	150
74 (Sept./Oct. 1987)	118	2	30	150
75 (June 1988)	122	6	22	150
76 (June 1989)	101	-	49	150
77 (June 1990)	89	-	61	150

Sessions at which decisions were adopted	Number of States in which, according to information supplied by the Government,			Number of States which were Members of the Organization at the time of the session
	all the texts have been submitted	some of these texts have been submitted	none of these texts have been submitted (including cases in which no information has been supplied by the Government)	
78 (June 1991)	82	-	67	149
79 (June 1992)	74	1	82	157
80 (June 1993)	69	1	101	171
81 (June 1994)	39	2	130	171

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* At this session the Conference adopted one Recommendation only.

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